Ontario

Comité permanent de l'Assemblée législative

Rapport sur Keith Harfield

2e session, 35e législature
41 Elizabeth II

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Ontario

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

L'honorable David Warner,
Président de l'Assemblée législative

Monsieur,

Le comité permanent de l'Assemblée législative a l'honneur de présenter son rapport sur Keith Harfield et le confie a l'Assemblée.

Le président du comité,

Steven Offer

Queen's Park
Avril 1992

Données de catalogage avant publication (Canada)

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RAPPORT SUR KEITH HARFIELD

Introduction

Le jeudi 19 décembre 1991, l'Assemblée législative de l'Ontario ordonne au Comité permanent de l'Assemblée législative de mener une enquête sur certaines affaires reliées à la communication de renseignements du ministère de la Santé. Le texte du décret de l'Assemblée instituant le mandat du Comité est joint à ce rapport dont il constitue l'Annexe «A».

Dans la préparation de l'enquête et la supervision des questions de procédure connexes, le sous-comité des affaires du Comité a agi avec une autorité considérable selon les instructions de l'Assemblée. Le paragraphe 5 du mandat du Comité stipule entre autres ce qui suit :

5) Le sous-comité a le pouvoir ultime de prendre des décisions en ce qui concerne la convocation des témoins et tous autres aspects de procédure des travaux, et toutes les questions qui surgissent relativement à l'exécution du mandat du Comité.

Conformément au paragraphe 6 du mandat du Comité, le sous-comité a engagé une avocate du Comité à laquelle il a donné ses instructions. Le sous-comité a chargé l'avocate d'interroger un certain nombre de témoins éventuels comme convenu par le sous-comité, et de rendre compte de l'examen au sous-comité. L'avocate était également autorisée à demander la production de preuves documentaires.

Présentation de Keith Harfield

En février 1992, avant le commencement des audiences publiques du Comité, l'avocate du Comité a informé le sous-comité que ses efforts réitérés en vue d'interroger un témoin éventuel, Keith Harfield, s'étaient heurtés à un manque de coopération de la part de ce dernier. M. Harfield a clairement informé l'avocate qu'il n'était pas disposé à se présenter et à déposer devant le Comité permanent de l'Assemblée législative.

Conformément au pouvoir imparti au sous-comité en vertu du paragraphe 7 du mandat, le président du Comité a été chargé par le sous-comité de demander l'émission d'un mandat du président de l'Assemblée législative pour forcer M. Keith Harfield, de Harfield and Associates, conseillers en gestion, 143, rue Applegrove, Sudbury (Ontario) à se présenter et à déposer devant le Comité permanent de l'Assemblée législative, le jeudi 13 février 1992 à 10 h, et d'y rester jusqu'à ce que sa présence ne soit plus requise. Une copie de la lettre du président du Comité au président de l'Assemblée est jointe à ce rapport dont elle constitue l'annexe «B».

Le 7 février 1992, le président de l'Assemblée accède à la demande et décerne un mandat pour forcer M. Keith Harfield à se présenter et à produire tous les documents pertinents.

Les 10 et 11 février, après des tentatives réitérées, le sergent d'armes est dans l'incapacité de signifier personnellement le mandat à M. Keith Harfield. Par affidavit du 18 février (voir

Annexe «C» ci-jointe), le sergent d'armes dit qu'il croit que M. Keith Harfield a, de propos délibéré, évité la signification du mandat.

Le 14 février, sur de nouvelles instructions du sous-comité des affaires du Comité, le président du Comité écrit de nouveau au président de l'Assemblée, le priant d'émettre un mandat pour forcer M. Keith Harfield à se présenter et à déposer devant le Comité permanent de l'Assemblée législative, le lundi 9 mars 1992, à 10 h, et à produire devant le Comité tous les registres, documents ou choses en rapport avec l'ordonnance de renvoi du Comité portant la date du jeudi 19 décembre 1991. La lettre du président du Comité du 14 février 1992 est jointe à titre d'Annexe «D».

Le 18 février, le président de l'Assemblée accède à la demande et émet son mandat pour forcer M. Keith Harfield à se présenter et à produire la totalité des registres, documents ou choses en rapport avec l'ordonnance de renvoi du Comité. En même temps, le président de l'Assemblée émet un décret enjoignant le shérif de la Municipalité régionale de Sudbury de faire le nécessaire pour signifier personnellement le mandat à M. Keith Harfield à son adresse professionnelle avec une copie du mandat et du décret. Le décret du président exigeait que, à défaut de signification personnelle à M. Keith Harfield, le shérif laisse une copie du mandat et du décret à un adulte à l'adresse professionnelle, qu'il envoie, en outre, une autre copie du mandat et du décret à M. Keith Harfield à son adresse professionnelle et à l'adresse postale de son domicile. La signification du mandat a pris effet le cinquième jour après l'envoi postal du mandat.

Le 3 mars, le président de l'Assemblée informe le sous-comité que le mandat a effectivement été signifié à M. Keith Harfield.

Le 9 mars, M. Keith Harfield se présente devant le Comité. À ce moment-là, il indique à l'avocate du Comité qu'il ne répondra pas à certaines questions que lui poserait l'avocate pour procurer des preuves devant le Comité. Il est ensuite convenu de remettre la déposition au matin du 10 mars pour donner à M. Harfield le temps de réfléchir sur sa situation.

Le 10 mars, M. Keith Harfield ne se présente pas devant le Comité. Son avocat fait savoir que M. Harfield a reçu les soins d'un hôpital local à la suite d'un empoisonnement alimentaire et que son client se présentera devant le Comité le 11 mars à 9 h 30.

Le 11 mars, M. Keith Harfield ne se présente pas au lieu et à l'heure fixés. Il se présente et dépose verbalement dans l'après-midi du 11 mars dans le cadre d'une audience publique et d'une audience à huis clos.

Production du «livre noir»

Au cours de la déposition à huis clos, le Comité apprend l'existence d'un document dont M. Harfield a la possession et le contrôle, à savoir un livre noir renfermant des renseignements sur des contacts, notamment des numéros de téléphone. Le Comité apprend que, contrairement

aux instructions du mandat du président de l'Assemblée, M. Harfield n'a pas apporté le document pour le produire au Comité. Conformément aux instructions de ce mandat, M. Keith Harfield est tenu de produire le carnet de notes au Comité. Le sous-comité ordonne à l'avocate du Comité de prendre des dispositions pour la production du carnet de notes au Comité et de lui rendre compte des dispositions prises. À la fin de la réunion du 11 mars, le Comité refuse de libérer M. Harfield de ses obligations aux termes du mandat du président de l'Assemblée.

Les particularités des pourparlers entre les avocats du Comité et M. Keith Harfield et son avocat relativement à la production du livre noir sont relatées dans une note de service du 31 mars 1992, jointe à ce rapport dont elle constitue l'Annexe «E». Le résumé suivant relate les faits survenus entre le 12 et le 31 mars.

Les 12 et 13 mars, l'avocat du Comité appelle l'avocat de M. Keith Harfield pour demander que M. Harfield produise son livre noir au Comité, et lui fait savoir que si M. Harfield doit se présenter par suite de la production du livre noir, ce sera le 30 mars.

Le 24 mars, l'avocat de M. Keith Harfield fait savoir qu'il a communiqué la demande à M. Harfield. L'avocat du Comité comprend que l'avocat de M. Harfield doit demander à M. Harfield à quelle date le Comité peut compter sur la production du document.

Le 25 mars, n'ayant reçu aucune communication le matin au sujet du carnet de notes, l'avocat du Comité fait savoir par écrit à l'avocat de M. Harfield que son client est tenu de se présenter devant le Comité permanent de l'Assemblée législative le 30 mars 1992 à 10 h conformément au mandat du président de l'Assemblée qui lui a été émis. L'avocat du Comité ajoute dans cette lettre qu'une décision au sujet de la présence éventuelle de M. Harfield pourra être prise après examen du livre noir.

L'avocat du Comité parle aussi avec l'avocat de M. Keith Harfield par téléphone, le 25 mars. Il apprend de lui que M. Harfield va envoyer le carnet de notes ce jour-même par messager à son avocat et que ce dernier devrait l'avoir en sa possession le lendemain.

Le livre noir n'arrive pas. Le 26 mars, l'avocat du Comité parle de nouveau avec l'avocat de M. Keith Harfield, qui lui fait savoir que son client a eu du mal à faire copier le document et qu'il n'a même pas le carnet qu'il a remis à un employé qui est chargé de le copier. L'avocat du Comité réitère la demande du Comité que le document soit produit très tôt le lendemain.

Le livre noir n'arrive toujours pas. Le 27 mars, l'avocat du Comité écrit à l'avocat de M. Harfield et confirme que M. Keith Harfield sera tenu de se présenter devant le Comité le lundi 30 mars 1992. Le même jour, l'avocat de M. Harfield fait savoir par téléphone que le livre est à la copie. Il dit qu'il était difficile de le copier durant la semaine et qu'il sera copié le samedi. Il ajoute qu'il compte le recevoir à la première heure le lundi matin. Il précise que M. Harfield ne viendra pas. L'avocat du Comité l'informe que M. Harfield est tenu de se présenter devant le Comité et qu'il doit être à Toronto le lundi et, en outre, que M. Harfield a eu un préavis d'au moins deux semaines du désir du Comité de voir le carnet de notes. L'avocat

de M. Harfield dit que son client n'a pas l'assurance que ces affaires seront traitées à titre confidentiel et qu'il a besoin du livre pour ses affaires.

Le dimanche 29 mars, l'avocat du Comité informe par téléphone M. Harfield qu'en raison de changements dans le calendrier de réunions du Comité, celui-ci n'entendra pas sa déposition le lendemain et que M. Harfield n'est donc pas tenu de se présenter. L'avocat du Comité confirme expressément que la remise immédiate du livre noir est toujours exigée.

Au cours d'un appel conférence le 30 mars entre l'avocate du Comité, l'avocat de M. Harfield et M. Keith Harfield, l'avocate du Comité est informée que, contrairement à ce qui a été promis antérieurement, M. Keith Harfield ni ne copiera son livre noir, ni ne l'enverra sans l'accompagner à Toronto. Au contraire, M. Harfield le produira seulement à l'avocate du Comité, M^{me} Jackson, et insiste pour être présent à la production. L'avocate du Comité fait savoir que si M. Harfield insiste pour ne produire le livre noir qu'à elle, cela devra avoir lieu le mardi 31 mars après-midi, car à d'autres moments elle serait en réunion avec le Comité. M. Harfield indique sa préférence pour une réunion le mercredi. L'avocate du Comité répond que c'est impossible à cause du calendrier du Comité. M. Harfield s'engage à se présenter au bureau de l'avocate du Comité le mardi 31 mars à 14 h.

Le matin du 31 mars, l'avocat de M. Keith Harfield téléphone à l'avocate du Comité pour l'informer que M. Keith Harfield ne se présentera pas à 14 h ce jour-là comme promis, mais qu'il propose une réunion à 14 h le mercredi. Son avocat est informé que, comme indiqué antérieurement, une telle réunion n'est pas possible et qu'elle viendrait trop tard.

Jusqu'à présent, le livre noir n'a pas été produit au Comité.

Explication de l'avocat de M. Keith Harfield

L'avocat de M. Keith Harfield a passé en revue les circonstances du défaut de M. Harfield de produire le livre noir dans une lettre à l'avocate du Comité, portant la date du 1er avril 1992, et dans une lettre au président et aux membres du Comité, portant la date du 6 avril 1992. Des copies de ces lettres sont jointes à ce rapport dont elles constituent l'Annexe «F».

On peut se reporter aux éléments suivants de l'explication fournie par l'avocat de M. Harfield :

- dans le délai très exigu disponible, il n'a pas été possible aux parties en cause de se réunir à un moment qui convienne à toutes les parties;

- le 11 mars, le Comité n'a pas fixé de date précise pour la production du livre;

- durant la semaine qui a suivi la clôture des audiences du Comité, l'avocat de M. Keith Harfield était en vacances à l'étranger;

- M. Keith Harfield se sert tous les jours de son «carnet de numéros de téléphone»;

- étant donné que cette période de l'année est la plus occupée pour M. Harfield, celui-ci désirait photocopier le livre avant de l'envoyer;

- à cause de la divulgation au public de sa déposition à huis clos, M. Harfield était très inquiet de l'usage que le Comité ferait de son livre, notamment sa publication éventuelle. C'est pourquoi il a décidé de le garder en sa possession et d'être présent pour le montrer à l'avocate du Comité;

- M. Harfield n'a pas pu être disponible lorsque l'avocate du Comité l'était, il a donc décidé d'envoyer le livre à son avocat pour que celui-ci le produise à l'avocate du Comité;

- M. Harfield a eu du mal à trouver un photocopieur avant la fin de semaine et à envoyer le livre à son avocat par messager;

- M. Harfield a pris dûment des dispositions pour se rendre à Toronto dans la nuit du dimanche 29 mars pour pouvoir produire le livre à l'avocate du Comité et, au besoin, se présenter avec le livre à l'audience du Comité prévue pour le 30 mars à 14 h;

- le dimanche 29 mars après-midi, l'avocat de M. Harfield a reçu l'avis du changement de calendrier des réunions du Comité, par suite duquel la déposition ne serait pas entendue le 30 mars et la présence de M. Harfield ne serait pas requise à ce moment;

- des dispositions ont été prises pour que M. Harfield se présente au bureau de l'avocate du Comité le mardi 31 mars à 14 h pour l'examen du livre noir;

- M. Harfield s'est rendu compte par la suite qu'«il avait des rendez-vous avec des clients le mardi 31 octobre, ce qui ne lui permettait pas de se rendre à Toronto». Il s'est engagé à envoyer le livre par messager à son avocat pour que celui-ci le présente à l'avocate du Comité;

- le soir du 30 mars, M. Harfield a informé son avocat que le messager n'avait pas trouvé sa maison, n'avait pas fait la livraison du livre, et qu'il ne serait pas en mesure de remettre le livre à Toronto pour l'après-midi du 31 mars, mais qu'il l'apporterait à Toronto le 1er avril.

En résumé, l'avocat de M. Harfield déclare que son client était «prêt, disposé et apte à se présenter devant le Comité permanent le 30 mars 1992 comme exigé par vos lettres des 25 et 27 mars». «Il faut, conclut-il, insister sur le fait que M. Harfield n'a pas refusé de se présenter et qu'il n'a pas refusé de présenter le livre aux fins d'inspection. Malheureusement, les

dispositions n'ont pas abouti jusqu'ici.» L'avocat de M. Harfield présente au Comité le «regret sincère de M. Harfield que, jusqu'à présent, les dispositions prises n'aient pas eu le résultat espéré et escompté par toutes les parties».

Conclusion et recommandations

Le Règlement et l'autorité de la *Loi sur l'Assemblée législative* accordent aux Comités de l'Assemblée législative le pouvoir de faire venir les personnes, documents et choses qu'ils décident être nécessaires dans le cadre de leur mandat. Ce pouvoir ne peut être entravé ou diminué à la légère si les Comités doivent faire enquête sur les affaires dont l'Assemblée législative les saisit. L'intégrité des procédés parlementaires doit être sauvegardée si nous voulons préserver le respect de la dignité de l'Assemblée législative. Le Comité permanent de l'Assemblée législative se sent donc obligé de rendre compte de la conduite de M. Keith Harfield telle qu'elle a été rapportée ci-dessus.

En examinant la déposition des réactions de M. Keith Harfield aux demandes légitimes du Comité permanent de l'Assemblée législative visant à ce qu'il se présente et produise des documents, votre Comité en arrive à la conclusion que le mode de conduite démontré est celui d'une évasion et d'un retard délibérés et réitérés qui attestent un manque de respect envers le Comité et l'Assemblée législative.

Votre Comité estime que la conduite de M. Keith Harfield constitue un outrage au Comité, aux mandats du président et à l'Assemblée législative. En particulier, le Comité est d'avis que M. Keith Harfield a enfreint les dispositions des alinéas 6 et 7 du paragraphe 46(1) de la *Loi sur l'Assemblée législative*, L.R.O. 1990, chap. L.10.

Votre Comité recommande donc :

(1) Que l'Assemblée reconnaisse M. Keith Harfield coupable d'outrage;

(2) Que l'Assemblée ordonne au président d'adresser une admonestation publique à M. Keith Harfield, de Harfield and Associates, conseillers en gestion, 143, rue Applegrove, Sudbury (Ontario), le réprimandant pour sa conduite désobéissante en réaction aux demandes légitimes du Comité permanent de l'Assemblée législative.

ANNEXE «A»

On motion by Mr Cooke,

Ordered, That committees be authorized to release their reports during the Recess between the First and Second Sessions of this Parliament by depositing a copy of any report with the Clerk of the Assembly, and on the second Sessional day of the Second Session of the 35th Parliament the Chairs of such committees shall bring any such reports before the House in accordance with the Standing Orders.

On motion by Mr Cooke,

Ordered, That, notwithstanding the prorogation of the House, the Order of the House of Wednesday, October 23, 1991 with respect to Bill 118, An Act to amend the Power Corporation Act, the Order of the House of Tuesday, December 10, 1991 with respect to Bill 143, An Act respecting the Management of Waste in the Greater Toronto Area and to amend the Environmental Protection Act, and the Order of the House of December 20, 1990 as amended with respect to the Select Committee on Ontario in Confederation be continued in the Recess between the First and Second Sessions of this Parliament and in the Second Session of the 35th Parliament.

On motion by Mr Cooke,

Ordered, That the membership of the select, special and standing committees in the Recess between the First and Second Sessions of this Parliament be provided in writing to the Clerk of the House prior to January 8, 1992 by the respective Whips of the 3 parties in the House.

On motion by Mr Cooke,

Ordered, That,

1) The Standing Committee on the Legislative Assembly shall meet for the purposes of an inquiry. The terms of reference of this inquiry include but are not limited to:

   - an investigation into the disclosure of confidential information emanating from the Ministry of Health, including documentary and viva voce evidence.

   - an investigation into the conduct of the Minister of Northern Development and Mines in Thunder Bay, Ontario on December 5 1991, and the events leading up to her attendance in Thunder Bay.

   - an investigation into the dissemination of information obtained from the Ministry of Health.

2) All necessary documentary evidence, including confidential files be produced for review by the sub-committee of the committee under the auspices of the Information and Privacy Commissioner.

3) The Legislative Assembly committee for the purpose of this referral is to be chaired by a member of the official opposition.

4) The sub-committee of the committee be composed of one representative from each party plus the chair.

5) The sub committee shall have the ultimate decision making power with respect to the calling of witnesses and any other procedural aspects of the proceedings and all matters arising relevant to the execution of the terms of references of the committee. A minimum list of witnesses will be determined by the House Leaders; additional witnesses to be determined by the sub-committee. Length of time the committee will have to hold hearings, and write its report will be determined by the House Leaders.

6) There shall be a committee counsel hired and directed by the sub-committee paid for by the Legislative Assembly.

7) The sub-committee can through Speaker's Warrant compel the attendance of any person to attend and give evidence.

8) The sub-committee can through Speaker's Warrant require any person to produce in evidence such documents and things as the sub-committee may specify.

9) The members of the committee and/or their counsel shall be permitted, upon swearing an oath of non-disclosure, to obtain production and review of any document or thing and disclosure of any viva voce evidence necessary and ancillary to the purpose of this investigation.

10) If there shall be any objection to the disclosure of information based upon the *Freedom of Information and Protection of Privacy Act*, the committee may continue the proceedings in camera.

11) The Final Report of the Committee and/or any dissenting report must not disclose the names of any individual or group obtained from a confidential source but may disclose any information obtained provided that it is not attributable to any identifiable source and is not in contravention of the *Freedom of Information and Protection of Privacy Act*.

12) Prior to the commencement of the committee hearings the sub-committee may require the attendance of any person or production of any document for the purpose of a preliminary examination for discovery subject to oath of non-disclosure as outlined in paragraph 10 above.

13) This Legislative Assembly committee has priority over all other committees with respect to its sitting time and in any event, the committee shall not sit as a committee prior to the 10th day of February, 1992.

14) Any witness compelled to appear before the committee may attend with counsel and shall be required to give testimony under oath pursuant to section 58 of the *Legislative Assembly Act.*

15) The sub-committee may if requested permit any portion of the proceedings to occur in camera.

His Honour the Lieutenant Governor of the Province entered the Chamber of the Legislative Assembly and took his seat upon the Throne.

The Speaker addressed His Honour as follows:-

"May it please Your Honour:

The Legislative Assembly of the Province has, at its present meetings thereof, passed certain bills to which, in the name and on behalf of the said Legislative Assembly, I respectfully request Your Honour's assent."

The Clerk Assistant and Clerk of Journals then read the titles of the bills that had passed as follows:-

"The following are the titles of the bills to which Your Honour's assent is prayed:

Bill 83, An Act to amend the Income Tax Act.

Projet de loi 83, Loi portant modification de la Loi de l'impôt sur le revenu.

Bill 84, An Act to amend the Tobacco Tax Act.

Projet de loi 84, Loi portant modification de la Loi de la taxe sur le tabac.

Bill 85, An Act to amend the Fuel Tax Act, 1981.

Projet de loi 85, Loi portant modification de la Loi de 1981 de la taxe sur les carburants.

Bill 129, An Act to amend the Truck Transportation Act, 1988.

Projet de loi 129, Loi portant modification de la Loi de 1988 sur le camionnage.

Bill 135, An Act to provide for the Payment of Physicians' Dues and Other Amounts to the Ontario Medical Association.

Projet de loi 135, Loi prévoyant le paiement des cotisations des médecins et d'autres montants à l'Ontario Medical Association.

ANNEXE «B»

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Ontario

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

6 February 1992

The Honourable David Warner, M.P.P.
Speaker of the House
and Chair, Board of Internal Economy
Room 180
Legislative Building
Toronto, Ontario
M7A 1A2

Dear Speaker:

I am writing on behalf of the Sub-committee on Committee Business of the Standing Committee on the Legislative Assembly which is meeting pursuant to an Order of the House dated Thursday, 19 December 1991.

Paragraph 5) of the Committee's Order of Reference provides that

> 5) The Sub-committee shall have the ultimate decision-making power with respect to the calling of witnesses and any other procedural aspects of the proceedings and all matters arising relevant to the execution of the terms of reference of the Committee.

Pursuant to paragraph 6) of the Committee's Order of Reference, the Sub-committee has engaged a Committee Counsel, Patricia Jackson of Tory Tory DesLauriers & Binnington.

Counsel has been required by the Sub-committee to question potential witnesses and to report to the Sub-committee on the examination. Counsel has also been authorized to request the production of documentary evidence.

Counsel to the Committee has advised that repeated efforts to question one potential witness, Keith Harfield, have met with no co-operation. Mr Harfield has clearly advised Counsel that he is not willing to attend and give evidence before the Standing Committee on the Legislative Assembly.

Paragraph 7) of the Order of the House states that

> 7) The Sub-committee can through Speaker's Warrant compel the attendance of any person to attend and give evidence.

In accordance with the authority granted to the Sub-committee by the House, I have been directed by the Sub-committee to request that a Speaker's Warrant be issued to compel the attendance of Keith Harfield of Harfield and Associates, Management Consultants, 143 Applegrove Street, Sudbury, Ontario to attend and give evidence before the Standing Committee on the Legislative Assembly, in Room 228, Legislative Building, Toronto, at 10:00 a.m. on Thursday, 13 February 1992, to bring with him all documents, records or things related to the Committee's Order of Reference dated Thursday, 19 December 1991, and to remain until his attendance is no longer required.

Thank you for your consideration of the Committee's request.

Yours sincerely,

Steven Offer, M.P.P.
Chair
Standing Committee on
the Legislative Assembly

cc. Members of the Sub-committee
on Committee Business

Patricia Jackson
Counsel to the Committee

ANNEXE «C»

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

IN RE: An order of the Legislative Assembly of the Province of Ontario dated December 19, 1991, directing the Standing Committee thereof to inquire into matters including:

- an investigation into the disclosure of confidential information emanating from the Ministry of Health, including documentary and viva voce evidence;
- an investigation into the conduct of the Minister of Northern Development and Mines in Thunder Bay, Ontario on 5 December, 1991, and the events leading up to her attendance in Thunder Bay; and
- an investigation into the dissemination of information obtained from the Ministry of Health.

AFFIDAVIT OF THOMAS STELLING

I, Thomas Stelling, Sergeant-at-Arms attending the Legislative Assembly of the Province of Ontario, of the Town of Richmond Hill in the Regional Municipality of York;

MAKE OATH AND SAY:

1. I am Sergeant-at-Arms attending the Legislative Assembly of the Province of Ontario and therefore have knowledge of the matters hereinafter deposed to.

2. On February 7, 1992, I was instructed by Smirle Forsyth, Clerk Assistant and Clerk of Committees of the

Legislative Assembly of the Province of Ontario to effect personal service of a Warrant of the Speaker dated February 7, 1992 (the "Warrant") on Mr. Keith Harfield at Harfield and Associates, Management Consultants, 143 Applegrove Street, Sudbury, Ontario. The Warrant required the attendance of Mr. Harfield before the Standing Committee on the Legislative Assembly. Attached hereto and marked as Exhibit "A" to this my affidavit is a copy of the Warrant.

3. On the afternoon of February 7, 1992, I spoke with Mr. Harfield by telephone. I advised that I would be attending at the above address, being his place of business, on February 10, 1992 to serve him with the Warrant. Mr. Harfield advised that he would not be available at any time to accept service of the Warrant.

4. On February 10, 1992, at approximately 10:30 a.m., I attended at 143 Applegrove Street, Sudbury, Ontario where I met a man who identified himself to me as Mr. Marc Le Blanc, an employee at Mr. Harfield's office. Mr. Le Blanc advised that Mr. Harfield was not in the office at that time but was expected to arrive after 11:00 a.m..

5. At approximately 12:30 p.m. Mr. Harfield telephoned his office and, in my presence, Mr. Le Blanc informed

Mr. Harfield that I had arrived and was waiting for him. Mr. Le Blanc then informed me that Mr. Harfield would not be in the office for the remainder of the week.

6. Shortly before 2:00 p.m., Mr. Harfield telephoned his office again, and this time spoke to his secretary who identifed herself to me as Brenda but refused to state her surname. Brenda informed me that Mr. Harfield said that he was "on the Island". I took this to mean Manatoulin Island, where Mr. Harfield resides. I then left Mr. Harfield's office and telephoned his residence. I was told that Mr. Harfield was in Sudbury.

7. Before leaving Mr. Harfield's office at approximately 2:00 p.m., I left the phone number of my hotel with Brenda, Mr. Harfield's secretary. When I returned at approximately 3:00 p.m., Brenda informed me that she had provided this information to Mr. Harfield along with my request that he telephone me. I remained at Mr. Harfield's office until it closed for the day, at approximately 4:30 p.m.

8. After leaving Mr. Harfield's office, I returned to my hotel and remained there throughout the evening. Mr. Harfield did not contact me.

9. On February 11, 1992, I went to the town of Little Current, which is just outside the Settlement of Sheguiandah, near where Mr. Harfield resides on Manatoulin Island. Buildings in and around that Settlement, including Mr. Harfield's residence, do not have street addresses. Their postal addresses are post-office boxes in the Town of Little Current. While in Little Current I spoke on the telephone to Mrs. Harfield and advised her that I was attempting to personally serve Mr. Harfield with documents. Mrs. Harfield suggested I leave the documents at the Harfield's residential mailing address, being a post-office box in Little Current. Mrs. Harfield refused to provide me with directions to the Harfield residence.

10. I then returned to Mr. Harfield's office in Sudbury and was told by Mr. Le Blanc that Mr. Harfield was not there.

11. On the basis of the foregoing, it is my opinion that Keith Harfield is purposely evading service of the Warrant.

12. I verily believe that if a copy of the Warrant was served at Keith Harfield's business address, being Harfield and Associates, 143 Applegrove Street, Sudbury, Ontario, P3C 1N2, it would come to his attention. I base this belief on the fact that when I attended at this office Mr. Harfield kept in regular contact with his employees.

13. On February 14, 1992, I telephoned Mr. Harfield's office in Sudbury and was advised that Mr. Harfield's post-office box number in Little Current is 179. I verily believe that if a copy of the Warrant was mailed to Keith Harfield at P.O. Box 179, Little Current, Ontario, P0P 1K0, it would come to his attention.

SWORN BEFORE ME at the City of Toronto, in the Municipality of Metropolitan Toronto, this 18th day of February, 1992.

A Commissioner, etc.

ROSLYN MERLE TSAO
BARRISTER-AT-LAW, a Commissioner, etc., In and for the PROVINCE OF ONTARIO for Blake, Cassels & Graydon, Barristers and Solicitors.
Expires August 30, 1994.

Thomas Stelling

17871(9-13)

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

IN RE: In order of the Legislative Assembly of the Province of Ontario dated December 19, 1991, directing the Standing Committee thereof to inquire into matters ...

Affidavit of Thomas Stelling
sworn February 18, **1992**

MESSRS. BLAKE, CASSELS & GRAYDON
Barristers and Solicitors
Box 25
Commerce Court West
Toronto, Ontario.
M5L 1A9

1787I(13)

This is Exhibit "A" to the Affidavit of
Thomas Stelling
sworn before me this [illegible] day of [illegible] 19
[illegible]
A Commissioner

[illegible]
Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

WARRANT

TO: Keith Harfield
Harfield and Associates, Management Consultants
143 Applegrove Street
Sudbury, Ontario
P3C 1N2

YOU ARE REQUIRED TO ATTEND AND GIVE EVIDENCE before the Standing Committee on the Legislative Assembly, in Room 228, Legislative Building, Queen's Park, Toronto, at 10.00 a.m. on Thursday, 13 February 1992, and to remain until your attendance is no longer required.

The Committee is considering the subject of an inquiry, pursuant to an Order of the Legislative Assembly of Ontario dated Thursday, 19 December 1991, whose terms of reference include but are not limited to:

- an investigation into the disclosure of confidential information emanating from the Ministry of Health, including documentary and viva voce evidence;
- an investigation into the conduct of the Minister of Northern Development and Mines in Thunder Bay, Ontario on 5 December 1991, and the events leading up to her attendance in Thunder Bay; and
- an investigation into the dissemination of information obtained from the Ministry of Health.

YOU ARE REQUIRED TO BRING WITH YOU AND PRODUCE to the Committee all documents, records or things related to the Committee's Order of Reference dated Thursday, 19 December 1991.

IF YOU DISOBEY THIS WARRANT, you may be subject to punishment, including imprisonment.

DATED at Toronto, Ontario, on Friday, 7 February 1992.

The Honourable David Warner, M.P.P.,
Speaker of the Legislative Assembly of Ontario.

ANNEXE «D»

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Ontario

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

14 February 1992

The Honourable David Warner, M.P.P.
Speaker of the Legislative Assembly
Room 180
Legislative Building
Toronto, Ontario
M7A 1A2

Dear Speaker:

I am writing on behalf of the Sub-committee on Committee Business of the Standing Committee on the Legislative Assembly, which is meeting pursuant to an Order of the House dated Thursday, 19 December 1991.

At its meeting of Thursday, 13 February 1992, the Sub-committee reviewed your letter outlining the failure to effect service of a Speaker's Warrant on Keith Harfield of Sudbury. The Sub-committee reviewed its options within the context of the powers granted to it by the House.

As outlined in previous correspondence, paragraph 5) of the Committee's Order of Reference provides that

> 5) The Sub-committee shall have the ultimate decision-making power with respect to the calling of witnesses and any other procedural aspects of the proceedings and all matters arising relevant to the execution of the terms of reference of the Committee.

Paragraph 7) of the Order of the House states that

> 7) The Sub-committee can through Speaker's Warrant compel the attendance of any person to attend and give evidence.

Pursuant to the authority granted to the Sub-committee by the House, I have been directed by the Sub-committee to request that a

second Speaker's Warrant be issued to compel the attendance of Keith Harfield of Harfield and Associates, Management Consultants, 143 Applegrove Street, Sudbury, Ontario to attend and give evidence before the Standing Committee on the Legislative Assembly, in Room 228, Legislative Building, Toronto, at 10:00 a.m. on Monday, 9 March 1992, to bring with him all documents, records or things related to the Committee's Order of Reference dated Thursday, 19 December 1991, and to remain until his attendance is no longer required.

I am further directed to advise you that the Sub-committee requests that Counsel to the Committee, Ms. Patricia Jackson, liaise with the Sergeant-at Arms with regard to the most effective means to effect service.

Thank you for your consideration of the Committee's request.

Yours sincerely,

Steven Offer, M.P.P.
Chair
Standing Committee on
the Legislative Assembly

cc. Members of the Sub-committee
on Committee Business

Patricia Jackson
Counsel to the Committee

ANNEXE «E»

Tory Tory DesLauriers & Binnington

MEMORANDUM

RE: **DEALINGS BETWEEN COMMITTTEE COUNSEL AND MR. HARFIELD AND HIS COUNSEL IN RESPECT OF MR. HARFIELD'S BLACK BOOK**

DATE: **MARCH 31/92**

Thursday, March 12, 1992 - Mr. Babin called George Rust-D'Eye after being asked to do so, in order to request that his client produce his black book to the Committee.

Friday, March 13, 1992 - Mr. Babin had a message from George Rust-D'Eye. He said that he was about to leave on vacation and that Mr. Babin should deal with his colleague, Barnett Kussner, in respect of this matter. Mr. Babin called Mr. Kussner and advised him that the Committee wanted production of Mr. Harfield's diary. Mr. Babin told him that Mr. Harfield should consider this an aspect of his Speaker's warrant. Mr. Kussner said that he had not previously dealt with this matter or with Mr. Harfield. He asked if we might wait for Mr. Rust-D'Eye's return. He said that Mr. Rust-D'Eye would be back at the end of the following week. Mr. Babin told him that as the Committee was not going to sit again until March 30, 1992, we could probably wait until Mr. Rust-D'Eye's return to have the book produced. Mr. Babin told him that if Mr. Harfield had to appear in connection with what was in the diary, that would occur on March 30, 1992. The conversation was confirmed in a letter from Mr. Kussner dated March 13, 1992.

Monday, March 23, 1992 - Mr. Babin called Mr. Kussner to see whether Mr. Rust-D'Eye had returned and whether he had relayed our request for the diary to him. Mr. Kussner said he would speak to Mr. Rust-D'Eye and ask him to get back to Mr. Babin.

Tuesday, March 24, 1992 - Mr. Rust-D'Eye called. He advised that he had already relayed our request to Mr. Harfield to see the diary. As Mr. Babin understood it, he was to inquire of Mr. Harfield as to when we could expect production of it.

Wednesday, March 25, 1992 - When we did not receive any communication in respect of the diary in the morning, Mr. Babin wrote to Mr. Rust-D'Eye and advised him that we required that his client appear before the Standing Committee on March 30, 1992 pursuant to the Speaker's warrant previously issued to him. Mr. Babin also advised him that we might be in a position to make a determination as to whether Mr. Harfield's presence was required after a review of the diary.

Mr. Babin also spoke with Mr. Rust-D'Eye on the telephone. The conversation is reflected in a letter sent by Mr. Rust-D'Eye on March 25, 1992. Mr. Babin was advised that Mr. Harfield was going to send the diary that day by courier, and that Mr. Rust-D'Eye would have it in his possession the next day.

Thursday, March 26, 1992 - Mr. Babin spoke to George Rust-D'Eye again. He advised that his client was having trouble getting the diary copied. He said that his client did not even have the diary, and that he had given it to an employee to have copied. Mr. Babin reiterated the

Committee's demand for production of the diary and advised Mr. Rust-D'Eye that if we did not have it by very early the next day, his client would definitely be required to appear on Monday, March 30, 1992.

Friday, March 27, 1992 - The diary did not arrive. Mr. Babin wrote to Mr. Rust-D'Eye and confirmed that Mr. Harfield would be required to attend before the Committee on Monday, March 30, 1992. Mr. Babin also spoke to Mr. Rust-D'Eye. He again said that the book was being copied. He said there was a problem in copying it during the week and that it would be copied on Saturday. He also said that he expected to receive it first thing in the morning on Monday. He indicated that Mr. Harfield would not be coming. Mr. Babin advised him that Mr. Harfield was required to attend before the Committee and should be in Toronto on Monday. Mr. Babin told him that Harfield had at least two weeks' notice of the Committee's wish to see the diary. Mr. Rust-D'Eye said that his client was not confident that these matters would be kept confidential. He also said that his client required the book for business purposes. He also advised that it was only on March 25, 1992 that he (Rust-D'Eye) learned that Mr. Harfield would be required to appear on Monday, March 30, 1992. Mr. Babin told him that Mr. Babin had indicated this to Mr. Kussner during our conversation on March 13, 1992.

Sunday, March 29, 1992 - Mr. Babin received word from Trisha Jackson that the Committee would not be sitting and hearing evidence on March 30, 1992. Mr. Babin immediately called Mr. Rust-D'Eye and left messages at his home

and on his voice mail at the office, asking him to call. He called late in the afternoon on March 29, 1992. Mr. Babin advised him that the Committee would not be hearing evidence the next day and that Mr. Harfield would therefore not be required to attend. Mr. Babin specifically confirmed that we still required immediate delivery of the diary which Mr. Rust-D'Eye acknowledged he clearly understood. He said that Mr. Harfield had made arrangements to attend and was on his way, but that he would try and advise him that his attendance was no longer required.

Monday, March 30, 1992 - Trisha Jackson spoke to George Rust-D'Eye, and then by conference call with Mr. Rust-D'Eye and Mr. Harfield. They advised that contrary to what had earlier been promised, Mr. Harfield would not copy his black book, or send it unaccompanied to Toronto. He would only produce it to Ms. Jackson and insisted on being present for the production. Ms. Jackson indicated that the ongoing delay in the provision of the book would be a very serious concern to the Committee, and that as a result of the delay and the Committee's schedule, it was left with virtually no time in which to deal with this matter. She indicated that she considered that the Committee would view the delays and lack of cooperation to date very seriously. Finally, she said that if Mr. Harfield insisted that he would only produce the black book to her, that that would have to occur on Tuesday afternoon, as she would be meeting with the Committee at other times. Mr. Harfield indicated a preference for a meeting on Wednesday; she indicated that was impossible in view of the Committee's

schedule. Mr. Harfield agreed to attend at her offices on Tuesday at 2:00 o'clock with his black book.

Tuesday, March 31, 1992 - After Ms. Jackson had departed to attend the Committee's meeting, her office received a message that Mr. Harfield would not be attending at 2:00 o'clock as earlier promised, but that he proposed a meeting at 2:00 o'clock on Wednesday. His counsel was advised that, as had been indicated previously, such a meeting was not possible and would be too late.

EJB:km

ANNEXE «F»

WEIR & FOULDS
Barristers & Solicitors

COPY

H.S.O. Morris, Q.C.
A.S. Wakim, Q.C.
W.T.R. Wilson
G.R. Baker, Q.C.
R.R. Wozenilek
K. Prehogan
J.D. Winberg
B.N. McLellan
J.M. Buhlman
L.A. Borsook
D.S. Tarshis
A.K. Clute
M.J. Dougherty
D.R. Wingfield
B.H. Engell
O.C. Brahmst
W.T. Egan
B.H. Kussner

J.P. Hamilton
M.J. McQuaid, Q.C.
B. Finlay, Q.C.
W.J. McNaughton
L.C.E. Tanaka
I.J. Lord
M.A. Gray
J.D. Campbell
J. Masejcek
D.R. Rogers
R.H. Kroman
J. Rosolak
J.B.A. Wilkinson
P.M. Daigle
G.M. Freedman
M.M. Chambers
S.G. Foran
S.A. Metcalfe

M.S. Archibald, Q.C.
P.D. Wendling
G.H. Rust-D'Eye
L.J. O'Connor
R.S. Sleightholm
R.B. Warren
J.S. Prypesniak
G.M. Caplan
D.K. Laushway
R.J. Lachcik
D.P. Ferguson
A.G. Formosa
C.G. Israel
G.W. Ackerley
W. Kady
J. Conte
L.E. Hastings

J.D. McKellar, Q.C.
N.W.C. Ross
R.W. Rosenman
W.A.D. Millar
P.M. Perell
J.G. Cowan
C.J. Tzaikas
A.V. Craig
J.G. Richards
L.M. Duffy
E. Mitchell
M.L. Sparrow
J. O'Sullivan
D.S. Brown
S.M. Thwaites
W.D. Coughlin
J.S. Paquette

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Please Reply to Toronto Office

Telephone (416) 365-1110
Fax (416) 365-1876

Direct Line (416) 947-

5080

THIS MATERIAL PREVIOUSLY
[illegible]PIED TO YOU

Our File No. 41/201

April 6, 1992.

The Chair and Members,
Standing Committee on the Legislative Assembly
Legislative Assembly,
Queen's Park,
Toronto, Ontario.
M7A 1A2

Dear Chair and Members of the Committee:

Re: Keith Harfield

Your Committee's counsel, Ms. Jackson, has advised me that your Committee intends to meet this Wednesday, April 8, to give consideration to the status of the matter involving the sole remaining potential evidence from my client, Keith Harfield, namely the question of the production of his personal telephone "black book" to which reference was made at the close of his evidence before the Committee on March 11, 1992.

I wish to emphasize at the outset, that Mr. Harfield is and has been at all times, prepared to produce the book to your counsel, and has never refused to do so. Unfortunately, in the very tight time frame available to your Committee and Ms. Jackson, it was not possible for the parties to get together at a time suitable to all, for this purpose.

As your Committee will remember, there was no specific time requirement set by the Committee on March 11 for the production of the book.

Later, after your Committee had established Monday, March 30, as the time at which Mr. Harfield would be required to attend before the Committee with the book, Mr. Harfield made arrangements and reservations and was ready to leave Sudbury on the afternoon of Sunday, March 29, when we received a telephone call from Ms. Jackson's office advising that the Committee would not be hearing evidence from anyone on the Monday.

When Mr. Harfield offered to bring the book down to Toronto on Wednesday, April 1, he was advised by Ms. Jackson that there would be no point in his doing so.

The difficulties in working out arrangements are detailed in my letter to Ms. Jackson of April 1, 1992, a copy of which is attached.

It is to be remembered that Mr. Harfield did attend before the Committee at the time designated in the Speaker's Warrant, that he met several times with counsel to the Committee, that he gave evidence before the Committee, and responded to all questions asked of him by members of the Committee.

It is conceded that Mr. Harfield, who has no particular interest in or connection with the affairs being considered by your Committee, has been a reluctant witness. As the Committee has been advised, Mr. Harfield's principal concern is that his testimony before the Committee would be perceived in the eyes of the public as a violation by Mr. Harfield of a trust owned to a contact who gave information to him in a confidential setting. Accordingly, Mr. Harfield sought a ruling from this Committee that the evidence, if it had to be given by him under compulsion, would be given in camera. This request was granted, and we all swore an oath not to disclose his evidence outside of the Committee Room.

Unfortunately full details of Mr. Harfield's evidence was apparently leaked to the press soon after his testimony was completed, and later published by the Committee itself through its decision to disclose the transcript of virtually all of the evidence given by Mr. Harfield. These actions have had the anticipated effect, namely significant loss of business to Mr. Harfield and damage to his reputation in the community.

For the same reasons, Mr. Harfield was very concerned about the use that would be made of his book by the Committee, including its potential publication. These factors led him to the conclusion that, if possible, he would keep the book in his possession, and be in attendance to show it to Ms. Jackson. Unfortunately he was not able to be available when Ms. Jackson was available. Practical problems involving courier pick-up on Manitoulin Island, contributed to defeat Mr. Harfield's intentions to do the next best thing, which was to forward the book to me for production to Ms. Jackson.

Relevance of the Telephone "Black Book"

As your Committee will remember, the references to the black book arose out of a question by Mr. Elston, who asked Mr. Harfield: "If you had your book, would you remember who else you had called on that day?"

Mr. Harfield answered that "I possibly could".

I think it is a fair interpretation of the discussion which ensued, that the Committee was requesting Mr. Harfield to review his book and to advise whether or not there was any information in it relevant to the purposes of the inquiry. I think it is also fair to conclude that it was anticipated that Mr. Harfield would produce any relevant parts of his book to counsel for the Committee, and that such relevant parts could become evidence.

In a letter to one of Ms. Jackson's associates, Mr. Babin, dated March 25, 1992, I advised as follows:

> "Mr. Harfield has confirmed to me that, pursuant to my advice, he has thoroughly reviewed the book, in which has compiled a list of various acquaintances and contacts established over his 17 years of work as a business consultant in the Sudbury area. He also wishes to confirm the following:
>
> - the contents of the book do not assist in improving or refreshing Mr. Harfield's memory with respect to any matters relating to the issues which where the subject of his testimony before the Committee;
>
> - the contents of the book do not provide any additional information that would add to Mr. Harfield's testimony in response to any questions put to him by or before the Committee;
>
> - for the above reasons, and for other personal and business reasons, Mr. Harfield does not want to give up the book, nor does he wish to have it placed in evidence at the hearing."

In that letter, a copy of which is attached, it was suggested that Mr. Harfield was prepared to have the Committee's counsel review the book, so that she could form her own conclusions on these points.

Mr. Harfield has asked me to express to your Committee his sincere regret that, so far, arrangements have not been worked out in the manner hoped for and anticipated by all parties.

Notwithstanding the fact that Mr. Harfield has found nothing in the book relevant to the Committee's enquiry, he has at no time refused to produce the book, and was fully prepared to attend with the book before your Committee at the only date specified by it for this purpose. This opportunity was cancelled by the Committee for reasons having nothing to do with Mr. Harfield.

Mr. Harfield has attempted to co-operate with the Committee's counsel, in the very short time period that he was given for this purpose.

Mr. Harfield fully understands and respects the importance of your Committee's work, and does not in any way wish to obstruct its processes or fail to co-operate to the best of his abilities.

I trust that the foregoing explanation will be satisfactory to your Committee. I will be pleased to discuss this matter further with the Committee or its counsel at any time.

Yours very truly,

George H. Rust-D'Eye,
WEIR & FOULDS

GHR:cb
encl/

cc: Ms. Trisha Jackson

FILE COPY

WEIR & FOULDS
Barristers & Solicitors

H.S.O. Morris, Q.C.
A.S. Wakim, Q.C.
W.T.R. Wilson
G.R. Baker, Q.C.
R.R. Wozeniak
K. Prehogan
J.D. Winberg
B.N. McLellan
J. Matejcek
D.R. Rogers
D.S. Tarshis
A.K. Clute
M.L. Sparrow
J. O'Sullivan
D.S. Brown
S.M. Thwaites
W.D. Coughlin
J.S. Paquette

J.P. Hamilton
M.J. McQuaid, Q.C.
B. Finlay, Q.C.
W.J. McNaughton
L.C.E. Tanaka
I.J. Lord
M.A. Gray
J.D. Campbell
D.K. Laushway
R.J. Lachcik
R.H. Kroman
J.N. Tascona
M.J. Dougherty
D.R. Wingfield
B.H. Engell
O.C. Brahmst
W.T. Egan
K.L. Cole

M.S. Archibald, Q.C.
P.D. Wendling
G.H. Rust-D'Eye
L.J. O'Connor
R.S. Sieghtholm
R.B. Warren
J.S. Prypasniak
G.M. Caplan
J.G. Richards
J.R. Stubbington
D.P. Ferguson
J. Rosolak
J.B.A. Wilkinson
P.M. Daigle
G.M. Freedman
M.M. Chambers
S.G. Foran
B.H. Kussner

J.D. McKellar, Q.C.
N.W.C. Ross
R.W. Rosenman
W.A.D. Millar
P.M. Perell
J.G. Cowan
C.J. Tzekas
J.M. Buhlman
L.A. Borsook
L.M. Duffy
E. Mitchell
A.G. Formosa
C.G. Israel
G.W. Ackerley
W. Kady
J. Conte
L.E. Hastings

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Please Reply to Toronto Office

Telephone (416) 365-1110
Fax (416) 365-1876

Direct Line (416) 947-5080

Our File No. 41/201

WITHOUT PREJUDICE

April 1, 1992.

Ms. Trisha D. Jackson
Tory Tory DesLauriers & Binnington
Suite 3000, IBM Tower,
P.O. Box 270,
Toronto-Dominion Centre,
Toronto, Ontario.
M5K 1N2

Dear Ms. Jackson:

Re: Standing Committee on the Legislative Assembly
- Keith Harfield

This is further to my recent discussions with you and Mr. Babin relating to arrangements for the production to you of Mr. Harfield's "telephone book", pursuant to the instructions of the Committee at the time of Mr. Harfield's testimony on March 11, 1992.

Unfortunately, for reasons discussed with you and Mr. Babin, and as summarized below, our client has not yet been able to produce this book to you. However, I want to emphasize that at no time has he refused to do so, and in fact he confirms that he is prepared to have you review the book, as outlined in my letter to your firm of March 25, 1992, a copy of which is attached.

I regret the delay in arrangements for production of the book. For the week following the close of the Committee hearings, I was out of the country on

vacation, although I understand that Mr. Babin was in contact with Mr. Kussner of this office on Friday, March 13, 1992.

When I returned to the office on March 23, Mr. Kussner advised me of his conversation and provided me with his confirming letter to Mr. Babin dated March 13, 1992, a copy of which is attached.

Mr. Babin contacted me on March 25, 1992, following which I immediately contacted our client, receiving instructions reflected in the letter referred to above.

Since the "telephone book" is in day-to-day use by our client and since this time of the year is his busiest period, it was his wish to photocopy the book prior to sending it to us. Unfortunately, no photocopying machine was available to our client until the weekend, and consequently the book was not delivered to this office.

Meanwhile, Mr. Babin had forwarded to me his letter dated March 25, 1992, a copy of which is attached, advising that Mr. Harfield was required to appear before the Standing Committee at 10:00 a.m. on March 30, 1992 pursuant to the Speaker's Warrant previously issued to him.

On Friday, March 27, at which time I was not in a position to confirm to Mr. Babin that the diary was in hand, he had delivered to me a further letter dated March 27, 1992 advising that Mr. Harfield would be required to attend before the Standing Committee on Monday, March 30, 1992 at 2:00 p.m.

In view of Mr. Harfield's difficulty in photocopying his "telephone book" and forwarding it to me by courier, I advised him that he was required to comply with the instructions contained in Mr. Babin's last letter, and Mr. Harfield duly made arrangements to travel to Toronto on the night of Sunday, March 29 so that he would be available to produce the book to you and, if required, attend with the book at the Committee's hearing scheduled for March 30 at 2:00 p.m.

On Sunday afternoon, I received word from Mr. Babin that the Committee would not be hearing evidence on Monday, March 30, and no date had been scheduled for such evidence to be heard. Therefore, Mr. Harfield's attendance would not be required at that time. I was able to reach Mr. Harfield with this information before he had left for Toronto.

Early on the morning of March 30, 1992, I arranged a telephone conference call with you and Mr. Harfield, at which time arrangements were made for Mr. Harfield to attend at your office at 2:00 p.m. on Tuesday, October 31. At that time, you advised that that afternoon was the only time that you would be available to review the "telephone book".

Later, I received a telephone call from Mr. Harfield, advising that he had just realized that he had appointments with clients on Tuesday, October 31 which would prevent him from travelling to Toronto. I advised him to send the book by courier and that I would present it to you. He agreed to do that, and, to the best of my knowledge, made all necessary arrangements for this to be done through Purolator.

In the meantime, I had asked you, and also Mr. Arnott, the Clerk of the Committee, for assurance that the Committee would be prepared to pay Mr. Harfield's expenses should Mr. Harfield bring the book down himself.

During the evening of March 30, Mr. Harfield advised me that Purolator had missed his house, had not picked up the book, and that he would be unable to have the book in Toronto by the afternoon of March 31, but would bring it down to Toronto on April 1st.

Some time later, Mr. Arnott called to advise that the Committee had authorized him to confirm that Mr. Harfield's expenses would be paid provided that he attended on the afternoon of March 31. By this time, I was aware that Mr. Harfield could not do that.

First thing on the morning of March 31, I contacted Mr. Babin, to set out the current state of affairs, and to confirm that Mr. Harfield is prepared to attend on Wednesday, April 1, with the book, and produce it to you or any other lawyer in your firm, for inspection in accordance with the Committee's instructions.

I received your telephone message on the afternoon of March 31, advising that "there is absolutely no point in Mr. Harfield coming at 2:00 tomorrow afternoon because the Committee mandate is completed at 6:00 tomorrow afternoon."

I trust that the foregoing will explain the delay in getting this book to you. Mr. Harfield was ready, willing and able to attend before the Standing Committee on March 30, 1992, as required by your letters of March 25 and March 27. That date is only one established by the Committee for Mr. Harfield to attend pursuant to the Speaker's Warrant. All other discussions and proposed arrangements involved discussions by solicitors trying to meet each others' convenience. In this respect, I do appreciate the extent to which you and your office have co-operated in trying to make such arrangements, but it must be emphasized that Mr. Harfield has not refused to attend and has not refused to produce the book for inspection. Unfortunately arrangements have not yet been worked out.

I would greatly appreciate your advising the Standing Committee of the foregoing, and thank you for your continuing assistance in this matter.

Yours very truly,

George H. Rust-D'Eye,
WEIR & FOULDS

GHR:cb
encl/

WEIR & FOULDS
Barristers & Solicitors

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Our File No. 41/201

March 25, 1992.

Tory, Tory, DesLauriers & Binnington
Suite 3000,
IBM Tower,
P.O. Box 270,
Toronto-Dominion Centre,
Toronto, Ontario.
M5K 1N2

Attention: Mr. Edward J. Babin

Dear Mr. Babin:

Re: Martel Inquiry - Keith Harfield

This is to confirm my telephone conversation with Mr. Babin on Wednesday, March 25, 1992 at which time I advised him that I have been able to contact our client, who has advised me that he will be sending the "telephone book" to me by courier for the purpose of showing it to you and/or other members of your firm.

Mr. Harfield has confirmed to me that, pursuant to my advice, he has thoroughly reviewed the book, in which is compiled a list of various acquaintances and contacts established over his 17 years of work as a business consultant in the Sudbury area. He also wishes to confirm the following:

- the contents of the book do not assist in improving or refreshing Mr. Harfield's memory with respect to any matters relating to the issues which where the subject of his testimony before the Committee;

- the contents of the book do not provide any additional information that would add to Mr. Harfield's testimony in response to any questions put to him by or before the Committee;

- for the above reasons, and for other personal and business reasons, Mr. Harfield does not want to give up the book, nor does he wish to have it placed in evidence at the hearing.

This is further to confirm that Mr. Harfield's instructions to me are that I may show the book to you and other counsel for the Committee, but I am not authorized either to part with possession of the book, nor to allow copies to be made of any of its contents.

Mr. Harfield would be prepared to swear to the foregoing in an affidavit.

I would hope that your perusal of the book, once I have obtained it and shown it to you, will enable you to carry out Mr. Harfield's wishes, while complying with your mandate from the Committee.

I will contact you as soon as the book is received, and take all steps to bring it to you at the earliest possible time.

I have now received a copy of a letter from you of today's date, advising that Mr. Harfield is required to appear before the standing Committee on March 30, 1992. In view of the foregoing, I trust that this will not be required, and confirm Mr. Babin's statement that unless there is relevant information in the book, it will not be necessary for Mr. Harfield to attend. This is also to confirm, that should there be any information in the book found to be of relevance, it is only that part of the information which would be placed before the Committee and all other information would be covered or severed off.

I trust that the foregoing is satisfactory to you.

Yours very truly,

George H. Rust-D'Eye,
WEIR & FOULDS

GHR:cb

Standing Committee on the Legislative Assembly

Report on Keith Harfield

2nd Session, 35th Parliament
41 Elizabeth II

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Ontario

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

The Honourable David Warner, M.P.P.,
Speaker of the Legislative Assembly.

Sir,

Your Standing Committee on the Legislative Assembly has the honour to present its Report on Keith Harfield and commends it to the House.

Steven Offer, M.P.P.
Chair

Queen's Park
April 1992

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REPORT ON KEITH HARFIELD

Introduction

On Thursday, 19 December 1991, the Ontario Legislative Assembly directed the Standing Committee on the Legislative Assembly to conduct an inquiry into certain matters related to the release of Ministry of Health information. The text of the Order of the House establishing the Committee's terms of reference is appended to this report as Appendix "A".

In preparing for the inquiry, and overseeing related procedural matters, the Committee's Sub-committee on Committee Business operated with considerable authority as directed by the House. Paragraph 5 of the Committee's Order of Reference provided in part that,

> 5) The Sub-committee shall have the ultimate decision-making power with respect to the calling of witnesses and any other procedural aspects of the proceedings and all matters arising relevant to the execution of the terms of reference of the Committee.

Pursuant to paragraph 6 of the Committee's Order of Reference, the Sub-committee engaged and directed Counsel to the Committee. The Sub-committee required Counsel to question a number of potential witnesses as agreed upon by the Sub-committee, and to report to the Sub-committee on the examination. Counsel was also authorized to request the production of documentary evidence.

Attendance of Keith Harfield

In February 1992, prior to the commencement of public Committee hearings, Counsel to the Committee advised the Sub-committee that repeated efforts to question one potential witness, Keith Harfield, had met with no co-operation. Mr. Harfield clearly advised Counsel that he was not willing to attend and give evidence before the Standing Committee on the Legislative Assembly.

In accordance with the authority granted to the Sub-committee pursuant to paragraph 7 of the terms of reference, the Chair of the Committee was directed by the Sub-committee to request that a Speaker's Warrant be issued to compel the attendance of Keith Harfield of Harfield and Associates, Management Consultants, 143 Applegrove Street, Sudbury, Ontario, to attend and give evidence before the Standing Committee on the Legislative Assembly at 10:00 a.m. on Thursday, 13 February 1992, and to remain until his attendance was no longer required. A copy of the letter from the Chair to the Speaker is appended as Appendix "B".

On 7 February 1992, the Speaker of the Legislative Assembly agreed to the request and issued his Warrant to compel the attendance of Keith Harfield and the production of all relevant documents.

On 10 and 11 February, after repeated attempts, the Sergeant-at-Arms was unable to effect personal service of the Warrant on Keith Harfield. By Affadavit sworn on 18 February (see Appendix "C" attached), the Sergeant-at-Arms deposed that he believed Keith Harfield was purposely evading service.

On 14 February, at the further direction of the Sub-committee on Committee Business, the Chair of the Committee again wrote to the Speaker requesting that a Speaker's Warrant be issued to compel the attendance of Keith Harfield to attend and give evidence before the Standing Committee on the Legislative Assembly at 10:00 a.m. on Monday, 9 March 1992, and to bring and produce to the Committee all records, documents or things related to the Committee's Order of Reference dated Thursday, 19 December 1991. The Chair's letter dated 14 February 1992 is attached as Appendix "D".

On 18 February, the Speaker agreed to the request and issued his Warrant to compel the attendance of Keith Harfield and the production of all records, documents or things related to the Committee's Order of Reference. At the same time, the Speaker issued an Order requiring the Sheriff in the Regional Municipality of Sudbury to take steps to personally serve Keith Harfield at his business address with a copy of the Warrant and the Order. The Speaker's Order required that, failing personal service on Keith Harfield, the Sheriff was to leave one copy of the Warrant and the Order with an adult person at the business address, and furthermore to send another copy of the Warrant and Order to Keith Harfield at his business address and his residential postal address. Service of the Warrant was effective on the fifth day after the Warrant was mailed.

On 3 March, the Sub-committee was advised by the Speaker that the service of the Warrant had been effected on Keith Harfield.

On 9 March, Keith Harfield attended at Committee. At that time, he indicated to Counsel to the Committee that he would not answer certain questions that would be put to him by Counsel in eliciting evidence before the Committee. It was then agreed to defer the taking of his evidence to the morning of 10 March, to allow Mr. Harfield time to reflect on his position.

On 10 March, Keith Harfield failed to attend at Committee. His Counsel advised that Mr. Harfield had been treated for food poisoning at a local hospital, and that his client would attend before the Committee at 9:30 a.m. on 11 March.

On 11 March, Keith Harfield failed to attend at the appointed time and place. He did attend and give oral evidence in the afternoon of 11 March, in both public and closed session hearings.

Production of the "black book"

In the course of taking evidence in closed session, the Committee learned of the existence of a document in the possession and control of Mr. Harfield, namely a black book containing information on contacts, including telephone numbers. The Committee learned that, contrary to the direction of the Speaker's Warrant, Mr. Harfield had not brought the document with him for production to the Committee. Pursuant to the direction of the Speaker's Warrant, Keith Harfield

was directed to produce the notebook to the Committee. The Sub-committee directed Counsel to the Committee to make arrangements for production of the notebook to the Committee, and to report on the arrangements. At the conclusion of the meeting of 11 March, the Committee declined to discharge Mr. Harfield from his obligations pursuant to the Speaker's Warrant.

The details of Committee Counsel's dealings with Keith Harfield and his Counsel with respect to production of the black book are set out in a memorandum dated 31 March 1992, appended to this report as Appendix "E". The following summary outlines those events between 12 March and 31 March.

On 12 and 13 March, Committee Counsel called Counsel to Keith Harfield in order to request that Mr. Harfield produce his black book to the Committee, and indicated that if Mr. Harfield had to appear as a result of the production of the black book, that would occur on 30 March.

On 24 March, Counsel to Keith Harfield advised that he had relayed the request to Mr. Harfield. Committee Counsel understood that Counsel to Mr. Harfield was to inquire of Mr. Harfield as to when the Committee could expect production of the document.

On 25 March, having received no communication in respect of the diary in the morning, Committee Counsel advised Counsel to Mr. Harfield in writing that his client was required to attend at the Standing Committee on the Legislative Assembly at 10:00 a.m. on 30 March 1992 pursuant to the Speaker's Warrant previously issued to him. Committee Counsel also advised that a determination as to whether Mr. Harfield's attendance was required could be made after a review of the black book.

Committee Counsel also spoke with Counsel to Keith Harfield by telephone on 25 March. Committee Counsel was advised that Mr. Harfield was going to send the diary that day by courier to his Counsel, and that the latter would have it in his possession the next day.

The black book did not arrive. On 26 March, Committee Counsel again spoke with Counsel to Keith Harfield, who advised that his client was having trouble getting the document copied, and that his client did not even have the diary but had given it to an employee to have it copied. Committee Counsel reiterated the Committee's demand for production of the document by very early the next day.

The black book did not arrive. On 27 March, Committee Counsel wrote to Counsel to Mr. Harfield and confirmed that Keith Harfield would be required to attend at the Committee on Monday, 30 March 1992. On the same day, Counsel to Mr. Harfield again advised by telephone that the book was being copied. He said there was a problem copying it during the week and that it would be copied on Saturday. He also said that he expected to receive it first thing in the morning on Monday. He indicated that Mr. Harfield would not be coming. Committee Counsel advised him that Mr. Harfield was required to attend before the Committee and should be in Toronto on Monday, and further, that Mr. Harfield had had at least two weeks' notice of the Committee's wish to see the diary. Counsel to Mr. Harfield said that his client was not confident that these matters would be kept confidential, and that his client required the book for business purposes.

On Sunday, 29 March, Committee Counsel advised Mr. Harfield by telephone that, due to changes in the Committee meeting schedule, the Committee would not hear evidence the next day, and that Mr. Harfield would therefore not be required to attend. Committee Counsel specifically confirmed that immediate delivery of the black book was still required.

In the course of a conference call on 30 March among Committee Counsel, Counsel to Mr. Harfield and Keith Harfield, Committee Counsel was advised that, contrary to what had earlier been promised, Keith Harfield would not copy his black book or send it unaccompanied to Toronto. Instead, Mr. Harfield would only produce it to Committee Counsel, Ms Jackson, and insisted upon being present for the production. Committee Counsel advised that, if Mr Harfield insisted that he would only produce the black book to her, that would have to occur on Tuesday afternoon, 31 March as she would be meeting with the Committee at other times. Mr. Harfield indicated a preference for a meeting on Wednesday; Committee Counsel indicated that was impossible in view of the Committee's schedule. Mr. Harfield agreed to attend at Committee Counsel's offices on Tuesday, 31 March at 2:00 p.m.

On the morning of 31 March, Counsel to Keith Harfield telephoned Committee Counsel to advise that Keith Harfield would not be attending at 2:00 p.m. that day as earlier promised, but that he proposed a meeting at 2:00 o'clock on Wednesday. His Counsel was advised that, as had been indicated earlier, such a meeting was not possible and would be too late.

To date, the black book has not been produced to the Committee.

Explanation by Counsel to Keith Harfield

Counsel to Keith Harfield reviewed the circumstances of Mr. Harfield's failure to produce the black book in a letter to Committee Counsel dated 1 April 1992, and in a letter to the Chair and members of the Committee dated 6 April 1992. Copies of the letters are appended as Appendix "F".

Reference may be made to the following elements of the explanation provided by Counsel to Mr. Harfield:

- in the very tight time frame available, it was not possible for the parties involved to get together at a time suitable to all;

- on 11 March, the Committee set no specific time requirement for the production of the book;

- during the week after the close of Committee hearings, Counsel to Keith Harfield was out of the country on vacation;

- the "telephone book" is in day-to-day use by Keith Harfield;

- since this time of year is Mr. Harfield's busiest work period, Mr. Harfield wished to photocopy the book prior to sending it;

- because of public disclosure of his closed session testimony, Mr. Harfield was very concerned about the use that would be made of his book by the Committee, including its possible publication, and therefore decided to keep the book in his possession and to be in attendance to show it to Committee Counsel;

- Mr. Harfield was not able to be available when Committee Counsel was available, and therefore decided to forward the book to his Counsel for production to Committee Counsel;

- Mr Harfield had difficulty in finding a photocopy machine until the weekend, and in forwarding the book to his Counsel by courier;

- Mr. Harfield duly made arrangements to travel to Toronto on the night of Sunday, 29 March so that he would be able to produce the book to Committee Counsel and, if required, attend with the book at the Committee's hearing scheduled for March 30 at 2:00 p.m.;

- on Sunday afternoon, 29 March, Counsel to Mr. Harfield received notice of the change of the Committee's meeting schedule, such that evidence would not be heard on 30 March and Mr. Harfield's attendance would not be required at that time;

- arrangements were made for Mr. Harfield to attend at Committee Counsel's office at 2:00 p.m. on Tuesday, 31 March for review of the black book;

- Mr. Harfield realized later that "he had appointments with clients on Tuesday, October 31 which would prevent him from travelling to Toronto"; he agreed to send the book by courier to his Counsel for presentation to Committee Counsel;

- during the evening of 30 March, Mr. Harfield advised his Counsel that the courier had missed his house, had not picked up the book, and that he would be unable to have the book in Toronto by the afternoon of 31 March, but would bring it to Toronto on 1 April.

In summary, Counsel to Mr. Harfield stated that his client was "ready, willing and able to attend before the Standing Committee on March 30, 1992, as required by your letters of March 25 and March 27." "It must be emphasized", he concluded, "that Mr. Harfield has not refused to attend and has not refused to produce the book for inspection. Unfortunately, arrangements have not yet been worked out." Counsel to Mr. Harfield conveyed to the Committee Mr. Harfield's "sincere regret that that, so far, arrangements have not been worked out in the manner hoped for and anticipated by all parties."

Conclusions and recommendations

Ontario legislative committees are granted, both by Standing Order and by authority of the Legislative Assembly Act, the power to send for such persons, papers and things as they determine are required within the ambit of their terms of reference. Such authority cannot be carelessly fettered or diminished if committees are to inquire freely into matters referred by the Legislative Assembly. The integrity of parliamentary processes must be safeguarded if we are to preserve respect for the dignity of the Legislature. The Standing Committee on the Legislative Assembly therefore feels itself obliged to report on the conduct of Keith Harfield as recounted above.

In reviewing the evidence of Keith Harfield's responses to legitimate requests by the Standing Committee on the Legislative Assembly for his attendance and for production of documents, your Committee concludes that the pattern of conduct established is one of deliberate and repeated evasion and delay which demonstrates a lack of respect for the Committee and the Legislative Assembly.

It is your Committee's view that the conduct of Keith Harfield constitutes a contempt of the Committee, of the Warrants of the Speaker, and of the Legislative Assembly. In particular, the Committee is of the opinion that Keith Harfield has breached Sections 46(1)6 and 46(1)7 of the Legislative Assembly Act, R.S.O. 1990, c. L.10.

Your Committee therefore recommends

(1) That the House find Keith Harfield in contempt; and

(2) That the House direct the Speaker to issue a public admonishment to Keith Harfield of Harfield and Associates, Management Consultants, 143 Applegrove Street, Sudbury, Ontario, reprimanding him for contemptible conduct in response to legitimate requests of the Standing Committee on the Legislative Assembly.

APPENDIX "A"

On motion by Mr Cooke,

Ordered, That committees be authorized to release their reports during the Recess between the First and Second Sessions of this Parliament by depositing a copy of any report with the Clerk of the Assembly, and on the second Sessional day of the Second Session of the 35th Parliament the Chairs of such committees shall bring any such reports before the House in accordance with the Standing Orders.

On motion by Mr Cooke,

Ordered, That, notwithstanding the prorogation of the House, the Order of the House of Wednesday, October 23, 1991 with respect to Bill 118, An Act to amend the Power Corporation Act, the Order of the House of Tuesday, December 10, 1991 with respect to Bill 143, An Act respecting the Management of Waste in the Greater Toronto Area and to amend the Environmental Protection Act, and the Order of the House of December 20, 1990 as amended with respect to the Select Committee on Ontario in Confederation be continued in the Recess between the First and Second Sessions of this Parliament and in the Second Session of the 35th Parliament.

On motion by Mr Cooke,

Ordered, That the membership of the select, special and standing committees in the Recess between the First and Second Sessions of this Parliament be provided in writing to the Clerk of the House prior to January 8, 1992 by the respective Whips of the 3 parties in the House.

On motion by Mr Cooke,

Ordered, That,

1) The Standing Committee on the Legislative Assembly shall meet for the purposes of an inquiry. The terms of reference of this inquiry include but are not limited to:

   - an investigation into the disclosure of confidential information emanating from the Ministry of Health, including documentary and viva voce evidence.

   - an investigation into the conduct of the Minister of Northern Development and Mines in Thunder Bay, Ontario on December 5 1991, and the events leading up to her attendance in Thunder Bay.

   - an investigation into the dissemination of information obtained from the Ministry of Health.

2) All necessary documentary evidence, including confidential files be produced for review by the sub-committee of the committee under the auspices of the Information and Privacy Commissioner.

3) The Legislative Assembly committee for the purpose of this referrai is to be chaired by a member of the official opposition.

4) The sub-committee of the committee be composed of one representative from each party plus the chair.

5) The sub committee shall have the ultimate decision making power with respect to the calling of witnesses and any other procedural aspects of the proceedings and all matters arising relevant to the execution of the terms of references of the committee. A minimum list of witnesses will be determined by the House Leaders; additional witnesses to be determined by the sub-committee. Length of time the committee will have to hold hearings, and write its report will be determined by the House Leaders.

6) There shall be a committee counsel hired and directed by the sub-committee paid for by the Legislative Assembly.

7) The sub-committee can through Speaker's Warrant compel the attendance of any person to attend and give evidence.

8) The sub-committee can through Speaker's Warrant require any person to produce in evidence such documents and things as the sub-committee may specify.

9) The members of the committee and/or their counsel shall be permitted, upon swearing an oath of non-disclosure, to obtain production and review of any document or thing and disclosure of any viva voce evidence necessary and ancillary to the purpose of this investigation.

10) If there shall be any objection to the disclosure of information based upon the *Freedom of Information and Protection of Privacy Act*, the committee may continue the proceedings in camera.

11) The Final Report of the Committee and/or any dissenting report must not disclose the names of any individual or group obtained from a confidential source but may disclose any information obtained provided that it is not attributable to any identifiable source and is not in contravention of the *Freedom of Information and Protection of Privacy Act*.

12) Prior to the commencement of the committee hearings the sub-committee may require the attendance of any person or production of any document for the purpose of a preliminary examination for discovery subject to oath of non-disclosure as outlined in paragraph 10 above.

13) This Legislative Assembly committee has priority over all other committees with respect to its sitting time and in any event, the committee shall not sit as a committee prior to the 10th day of February, 1992.

14) Any witness compelled to appear before the committee may attend with counsel and shall be required to give testimony under oath pursuant to section 58 of the *Legislative Assembly Act.*

15) The sub-committee may if requested permit any portion of the proceedings to occur in camera.

His Honour the Lieutenant Governor of the Province entered the Chamber of the Legislative Assembly and took his seat upon the Throne.

The Speaker addressed His Honour as follows:-

"May it please Your Honour:

The Legislative Assembly of the Province has, at its present meetings thereof, passed certain bills to which, in the name and on behalf of the said Legislative Assembly, I respectfully request Your Honour's assent."

The Clerk Assistant and Clerk of Journals then read the titles of the bills that had passed as follows:-

"The following are the titles of the bills to which Your Honour's assent is prayed:

Bill 83, An Act to amend the Income Tax Act.

Projet de loi 83, Loi portant modification de la Loi de l'impôt sur le revenu.

Bill 84, An Act to amend the Tobacco Tax Act.

Projet de loi 84, Loi portant modification de la Loi de la taxe sur le tabac.

Bill 85, An Act to amend the Fuel Tax Act, 1981.

Projet de loi 85, Loi portant modification de la Loi de 1981 de la taxe sur les carburants.

Bill 129, An Act to amend the Truck Transportation Act, 1988.

Projet de loi 129, Loi portant modification de la Loi de 1988 sur le camionnage.

Bill 135, An Act to provide for the Payment of Physicians' Dues and Other Amounts to the Ontario Medical Association.

Projet de loi 135, Loi prévoyant le paiement des cotisations des médecins et d'autres montants à l'Ontario Medical Association.

APPENDIX "B"

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Ontario

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

6 February 1992

The Honourable David Warner, M.P.P.
Speaker of the House
and Chair, Board of Internal Economy
Room 180
Legislative Building
Toronto, Ontario
M7A 1A2

Dear Speaker:

I am writing on behalf of the Sub-committee on Committee Business of the Standing Committee on the Legislative Assembly which is meeting pursuant to an Order of the House dated Thursday, 19 December 1991.

Paragraph 5) of the Committee's Order of Reference provides that

> 5) The Sub-committee shall have the ultimate decision-making power with respect to the calling of witnesses and any other procedural aspects of the proceedings and all matters arising relevant to the execution of the terms of reference of the Committee.

Pursuant to paragraph 6) of the Committee's Order of Reference, the Sub-committee has engaged a Committee Counsel, Patricia Jackson of Tory Tory DesLauriers & Binnington.

Counsel has been required by the Sub-committee to question potential witnesses and to report to the Sub-committee on the examination. Counsel has also been authorized to request the production of documentary evidence.

Counsel to the Committee has advised that repeated efforts to question one potential witness, Keith Harfield, have met with no co-operation. Mr Harfield has clearly advised Counsel that he is not willing to attend and give evidence before the Standing Committee on the Legislative Assembly.

Paragraph 7) of the Order of the House states that

> 7) The Sub-committee can through Speaker's Warrant compel the attendance of any person to attend and give evidence.

In accordance with the authority granted to the Sub-committee by the House, I have been directed by the Sub-committee to request that a Speaker's Warrant be issued to compel the attendance of Keith Harfield of Harfield and Associates, Management Consultants, 143 Applegrove Street, Sudbury, Ontario to attend and give evidence before the Standing Committee on the Legislative Assembly, in Room 228, Legislative Building, Toronto, at 10:00 a.m. on Thursday, 13 February 1992, to bring with him all documents, records or things related to the Committee's Order of Reference dated Thursday, 19 December 1991, and to remain until his attendance is no longer required.

Thank you for your consideration of the Committee's request.

Yours sincerely,

Steven Offer, M.P.P.
Chair
Standing Committee on
the Legislative Assembly

cc. Members of the Sub-committee
on Committee Business

Patricia Jackson
Counsel to the Committee

APPENDIX "C"

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

IN RE: An order of the Legislative Assembly of the Province of Ontario dated December 19, 1991, directing the Standing Committee thereof to inquire into matters including:

- an investigation into the disclosure of confidential information emanating from the Ministry of Health, including documentary and viva voce evidence;
- an investigation into the conduct of the Minister of Northern Development and Mines in Thunder Bay, Ontario on 5 December, 1991, and the events leading up to her attendance in Thunder Bay; and
- an investigation into the dissemination of information obtained from the Ministry of Health.

AFFIDAVIT OF THOMAS STELLING

I, Thomas Stelling, Sergeant-at-Arms attending the Legislative Assembly of the Province of Ontario, of the Town of Richmond Hill in the Regional Municipality of York;

MAKE OATH AND SAY:

1. I am Sergeant-at-Arms attending the Legislative Assembly of the Province of Ontario and therefore have knowledge of the matters hereinafter deposed to.

2. On February 7, 1992, I was instructed by Smirle Forsyth, Clerk Assistant and Clerk of Committees of the

Legislative Assembly of the Province of Ontario to effect personal service of a Warrant of the Speaker dated February 7, 1992 (the "Warrant") on Mr. Keith Harfield at Harfield and Associates, Management Consultants, 143 Applegrove Street, Sudbury, Ontario. The Warrant required the attendance of Mr. Harfield before the Standing Committee on the Legislative Assembly. Attached hereto and marked as Exhibit "A" to this my affidavit is a copy of the Warrant.

3. On the afternoon of February 7, 1992, I spoke with Mr. Harfield by telephone. I advised that I would be attending at the above address, being his place of business, on February 10, 1992 to serve him with the Warrant. Mr. Harfield advised that he would not be available at any time to accept service of the Warrant.

4. On February 10, 1992, at approximately 10:30 a.m., I attended at 143 Applegrove Street, Sudbury, Ontario where I met a man who identified himself to me as Mr. Marc Le Blanc, an employee at Mr. Harfield's office. Mr. Le Blanc advised that Mr. Harfield was not in the office at that time but was expected to arrive after 11:00 a.m..

5. At approximately 12:30 p.m. Mr. Harfield telephoned his office and, in my presence, Mr. Le Blanc informed

Mr. Harfield that I had arrived and was waiting for him. Mr. Le Blanc then informed me that Mr. Harfield would not be in the office for the remainder of the week.

6. Shortly before 2:00 p.m., Mr. Harfield telephoned his office again, and this time spoke to his secretary who identifed herself to me as Brenda but refused to state her surname. Brenda informed me that Mr. Harfield said that he was "on the Island". I took this to mean Manatoulin Island, where Mr. Harfield resides. I then left Mr. Harfield's office and telephoned his residence. I was told that Mr. Harfield was in Sudbury.

7. Before leaving Mr. Harfield's office at approximately 2:00 p.m., I left the phone number of my hotel with Brenda, Mr. Harfield's secretary. When I returned at approximately 3:00 p.m., Brenda informed me that she had provided this information to Mr. Harfield along with my request that he telephone me. I remained at Mr. Harfield's office until it closed for the day, at approximately 4:30 p.m.

8. After leaving Mr. Harfield's office, I returned to my hotel and remained there throughout the evening. Mr. Harfield did not contact me.

9. On February 11, 1992, I went to the town of Little Current, which is just outside the Settlement of Sheguiandah, near where Mr. Harfield resides on Manatoulin Island. Buildings in and around that Settlement, including Mr. Harfield's residence, do not have street addresses. Their postal addresses are post-office boxes in the Town of Little Current. While in Little Current I spoke on the telephone to Mrs. Harfield and advised her that I was attempting to personally serve Mr. Harfield with documents. Mrs. Harfield suggested I leave the documents at the Harfield's residential mailing address, being a post-office box in Little Current. Mrs. Harfield refused to provide me with directions to the Harfield residence.

10. I then returned to Mr. Harfield's office in Sudbury and was told by Mr. Le Blanc that Mr. Harfield was not there.

11. On the basis of the foregoing, it is my opinion that Keith Harfield is purposely evading service of the Warrant.

12. I verily believe that if a copy of the Warrant was served at Keith Harfield's business address, being Harfield and Associates, 143 Applegrove Street, Sudbury, Ontario, P3C 1N2, it would come to his attention. I base this belief on the fact that when I attended at this office Mr. Harfield kept in regular contact with his employees.

13. On February 14, 1992, I telephoned Mr. Harfield's office in Sudbury and was advised that Mr. Harfield's post-office box number in Little Current is 179. I verily believe that if a copy of the Warrant was mailed to Keith Harfield at P.O. Box 179, Little Current, Ontario, P0P 1K0, it would come to his attention.

SWORN BEFORE ME at the City of Toronto, in the Municipality of Metropolitan Toronto, this 18th day of February, 1992.

A Commissioner, etc.

Thomas Stelling

ROSELYNE MERLE TSAO
a Commissioner, etc., in and for the PROVINCE OF ONTARIO for Blake, Cassels & Graydon, Barristers and Solicitors.
Expires August 30, 1994.

1787I(9-13)

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

IN RE: In order of the Legislative Assembly of the Province of Ontario dated December 19, 1991, directing the Standing Committee thereof to inquire into matters ...

Affidavit of Thomas Stelling
sworn February 18, **1992**

MESSRS. BLAKE, CASSELS & GRAYDON
Barristers and Solicitors
Box 25
Commerce Court West
Toronto, Ontario.
M5L 1A9

1787I(13)

This is Exhibit "A" to the Affidavit of
Thomas Stelling
sworn before me this 13th day of February 19
A Commissioner

[illegible] for the Province of Ontario for [illegible]
& Empire, Barristers and Solicitors,
Expires August 30, 1994

LEGISLATIVE ASSEMBLY OF ONTARIO

WARRANT

TO: Keith Harfield
Harfield and Associates, Management Consultants
143 Applegrove Street
Sudbury, Ontario
P3C 1N2

YOU ARE REQUIRED TO ATTEND AND GIVE EVIDENCE before the Standing Committee on the Legislative Assembly, in Room 228, Legislative Building, Queen's Park, Toronto, at 10.00 a.m. on Thursday, 13 February 1992, and to remain until your attendance is no longer required.

The Committee is considering the subject of an inquiry, pursuant to an Order of the Legislative Assembly of Ontario dated Thursday, 19 December 1991, whose terms of reference include but are not limited to:

- an investigation into the disclosure of confidential information emanating from the Ministry of Health, including documentary and viva voce evidence;

- an investigation into the conduct of the Minister of Northern Development and Mines in Thunder Bay, Ontario on 5 December 1991, and the events leading up to her attendance in Thunder Bay; and

- an investigation into the dissemination of information obtained from the Ministry of Health.

YOU ARE REQUIRED TO BRING WITH YOU AND PRODUCE to the Committee all documents, records or things related to the Committee's Order of Reference dated Thursday, 19 December 1991.

IF YOU DISOBEY THIS WARRANT, you may be subject to punishment, including imprisonment.

DATED at Toronto, Ontario, on Friday, 7 February 1992.

The Honourable David Warner, M.P.P.,
Speaker of the Legislative Assembly of Ontario.

APPENDIX "D"

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Ontario

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

14 February 1992

The Honourable David Warner, M.P.P.
Speaker of the Legislative Assembly
Room 180
Legislative Building
Toronto, Ontario
M7A 1A2

Dear Speaker:

I am writing on behalf of the Sub-committee on Committee Business of the Standing Committee on the Legislative Assembly, which is meeting pursuant to an Order of the House dated Thursday, 19 December 1991.

At its meeting of Thursday, 13 February 1992, the Sub-committee reviewed your letter outlining the failure to effect service of a Speaker's Warrant on Keith Harfield of Sudbury. The Sub-committee reviewed its options within the context of the powers granted to it by the House.

As outlined in previous correspondence, paragraph 5) of the Committee's Order of Reference provides that

> 5) The Sub-committee shall have the ultimate decision-making power with respect to the calling of witnesses and any other procedural aspects of the proceedings and all matters arising relevant to the execution of the terms of reference of the Committee.

Paragraph 7) of the Order of the House states that

> 7) The Sub-committee can through Speaker's Warrant compel the attendance of any person to attend and give evidence.

Pursuant to the authority granted to the Sub-committee by the House, I have been directed by the Sub-committee to request that a

second Speaker's Warrant be issued to compel the attendance of Keith Harfield of Harfield and Associates, Management Consultants, 143 Applegrove Street, Sudbury, Ontario to attend and give evidence before the Standing Committee on the Legislative Assembly, in Room 228, Legislative Building, Toronto, at 10:00 a.m. on Monday, 9 March 1992, to bring with him all documents, records or things related to the Committee's Order of Reference dated Thursday, 19 December 1991, and to remain until his attendance is no longer required.

I am further directed to advise you that the Sub-committee requests that Counsel to the Committee, Ms. Patricia Jackson, liaise with the Sergeant-at Arms with regard to the most effective means to effect service.

Thank you for your consideration of the Committee's request.

Yours sincerely,

Steven Offer, M.P.P.
Chair
Standing Committee on
the Legislative Assembly

cc. Members of the Sub-committee
on Committee Business

Patricia Jackson
Counsel to the Committee

APPENDIX "E"

Tory Tory DesLauriers & Binnington

MEMORANDUM

RE: DEALINGS BETWEEN COMMITTTEE COUNSEL AND MR. HARFIELD AND HIS COUNSEL IN RESPECT OF MR. HARFIELD'S BLACK BOOK

DATE: MARCH 31/92

Thursday, March 12, 1992 - Mr. Babin called George Rust-D'Eye after being asked to do so, in order to request that his client produce his black book to the Committee.

Friday, March 13, 1992 - Mr. Babin had a message from George Rust-D'Eye. He said that he was about to leave on vacation and that Mr. Babin should deal with his colleague, Barnett Kussner, in respect of this matter. Mr. Babin called Mr. Kussner and advised him that the Committee wanted production of Mr. Harfield's diary. Mr. Babin told him that Mr. Harfield should consider this an aspect of his Speaker's warrant. Mr. Kussner said that he had not previously dealt with this matter or with Mr. Harfield. He asked if we might wait for Mr. Rust-D'Eye's return. He said that Mr. Rust-D'Eye would be back at the end of the following week. Mr. Babin told him that as the Committee was not going to sit again until March 30, 1992, we could probably wait until Mr. Rust-D'Eye's return to have the book produced. Mr. Babin told him that if Mr. Harfield had to appear in connection with what was in the diary, that would occur on March 30, 1992. The conversation was confirmed in a letter from Mr. Kussner dated March 13, 1992.

Monday, March 23, 1992 - Mr. Babin called Mr. Kussner to see whether Mr. Rust-D'Eye had returned and whether he had relayed our request for the diary to him. Mr. Kussner said he would speak to Mr. Rust-D'Eye and ask him to get back to Mr. Babin.

Tuesday, March 24, 1992 - Mr. Rust-D'Eye called. He advised that he had already relayed our request to Mr. Harfield to see the diary. As Mr. Babin understood it, he was to inquire of Mr. Harfield as to when we could expect production of it.

Wednesday, March 25, 1992 - When we did not receive any communication in respect of the diary in the morning, Mr. Babin wrote to Mr. Rust-D'Eye and advised him that we required that his client appear before the Standing Committee on March 30, 1992 pursuant to the Speaker's warrant previously issued to him. Mr. Babin also advised him that we might be in a position to make a determination as to whether Mr. Harfield's presence was required after a review of the diary.

Mr. Babin also spoke with Mr. Rust-D'Eye on the telephone. The conversation is reflected in a letter sent by Mr. Rust-D'Eye on March 25, 1992. Mr. Babin was advised that Mr. Harfield was going to send the diary that day by courier, and that Mr. Rust-D'Eye would have it in his possession the next day.

Thursday, March 26, 1992 - Mr. Babin spoke to George Rust-D'Eye again. He advised that his client was having trouble getting the diary copied. He said that his client did not even have the diary, and that he had given it to an employee to have copied. Mr. Babin reiterated the

Committee's demand for production of the diary and advised Mr. Rust-D'Eye that if we did not have it by very early the next day, his client would definitely be required to appear on Monday, March 30, 1992.

Friday, March 27, 1992 - The diary did not arrive. Mr. Babin wrote to Mr. Rust-D'Eye and confirmed that Mr. Harfield would be required to attend before the Committee on Monday, March 30, 1992. Mr. Babin also spoke to Mr. Rust-D'Eye. He again said that the book was being copied. He said there was a problem in copying it during the week and that it would be copied on Saturday. He also said that he expected to receive it first thing in the morning on Monday. He indicated that Mr. Harfield would not be coming. Mr. Babin advised him that Mr. Harfield was required to attend before the Committee and should be in Toronto on Monday. Mr. Babin told him that Harfield had at least two weeks' notice of the Committee's wish to see the diary. Mr. Rust-D'Eye said that his client was not confident that these matters would be kept confidential. He also said that his client required the book for business purposes. He also advised that it was only on March 25, 1992 that he (Rust-D'Eye) learned that Mr. Harfield would be required to appear on Monday, March 30, 1992. Mr. Babin told him that Mr. Babin had indicated this to Mr. Kussner during our conversation on March 13, 1992.

Sunday, March 29, 1992 - Mr. Babin received word from Trisha Jackson that the Committee would not be sitting and hearing evidence on March 30, 1992. Mr. Babin immediately called Mr. Rust-D'Eye and left messages at his home

and on his voice mail at the office, asking him to call. He called late in the afternoon on March 29, 1992. Mr. Babin advised him that the Committee would not be hearing evidence the next day and that Mr. Harfield would therefore not be required to attend. Mr. Babin specifically confirmed that we still required immediate delivery of the diary which Mr. Rust-D'Eye acknowledged he clearly understood. He said that Mr. Harfield had made arrangements to attend and was on his way, but that he would try and advise him that his attendance was no longer required.

Monday, March 30, 1992 - Trisha Jackson spoke to George Rust-D'Eye, and then by conference call with Mr. Rust-D'Eye and Mr. Harfield. They advised that contrary to what had earlier been promised, Mr. Harfield would not copy his black book, or send it unaccompanied to Toronto. He would only produce it to Ms. Jackson and insisted on being present for the production. Ms. Jackson indicated that the ongoing delay in the provision of the book would be a very serious concern to the Committee, and that as a result of the delay and the Committee's schedule, it was left with virtually no time in which to deal with this matter. She indicated that she considered that the Committee would view the delays and lack of cooperation to date very seriously. Finally, she said that if Mr. Harfield insisted that he would only produce the black book to her, that that would have to occur on Tuesday afternoon, as she would be meeting with the Committee at other times. Mr. Harfield indicated a preference for a meeting on Wednesday; she indicated that was impossible in view of the Committee's

schedule. Mr. Harfield agreed to attend at her offices on Tuesday at 2:00 o'clock with his black book.

Tuesday, March 31, 1992 - After Ms. Jackson had departed to attend the Committee's meeting, her office received a message that Mr. Harfield would not be attending at 2:00 o'clock as earlier promised, but that he proposed a meeting at 2:00 o'clock on Wednesday. His counsel was advised that, as had been indicated previously, such a meeting was not possible and would be too late.

EJB:km

APPENDIX "F"

WEIR & FOULDS
Barristers & Solicitors

COPY

H.S.O. Morris, Q.C.
A.S. Wakim, Q.C.
W.T.R. Wilson
G.R. Baker, Q.C.
R.R. Wozenilek
K. Prehogan
J.D. Winberg
B.N. McLellan
J.M. Buhlman
L.A. Borsook
D.S. Tarshis
A.K. Clute
M.J. Dougherty
D.R. Wingfield
B.H. Engell
O.C. Brahmst
W.T. Egan
B.H. Kussner
J.P. Hamilton
M.J. McQuaid, Q.C.
B. Finlay, Q.C.
W.J. McNaughton
L.C.E. Tanaka
I.J. Lord
M.A. Gray
J.D. Campbell
J. Matejcek
D.R. Rogers
R.H. Kroman
J. Rosolak
J.B.A. Wilkinson
P.M. Daigle
G.M. Freedman
M.M. Chambers
S.G. Foran
S.A. Metcalfe
M.S. Archibald, Q.C.
P.D. Wendling
G.H. Rust-D'Eye
L.J. O'Connor
R.S. Sleightholm
R.B. Warren
J.S. Prypasniak
G.M. Caplan
D.K. Laushway
R.J. Lachcik
D.P. Ferguson
A.G. Formosa
C.G. Israel
G.W. Ackerley
W. Kady
J. Conte
L.E. Hastings
J.D. McKellar, Q.C.
N.W.C. Ross
R.W. Rosenman
W.A.D. Millar
P.M. Perell
J.G. Cowan
C.J. Tzekas
A.V. Craig
J.G. Richards
L.M. Duffy
E. Mitchell
M.L. Sparrow
J. O'Sullivan
D.S. Brown
S.M. Thwaites
W.D. Coughlin
J.S. Paquette

TORONTO

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MISSISSAUGA

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Suite 902
Mississauga, Ont. L5B 3C2

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Fax (416) 896-0803

Please Reply to Toronto Office

Telephone (416) 365-1110
Fax (416) 365-1876

Direct Line (416) 947-

5080

THIS MATERIAL PREVIOUSLY
TELECOPIED TO YOU

Our File No. 41/201

April 6, 1992.

The Chair and Members,
Standing Committee on the Legislative Assembly
Legislative Assembly,
Queen's Park,
Toronto, Ontario.
M7A 1A2

Dear Chair and Members of the Committee:

Re: Keith Harfield

Your Committee's counsel, Ms. Jackson, has advised me that your Committee intends to meet this Wednesday, April 8, to give consideration to the status of the matter involving the sole remaining potential evidence from my client, Keith Harfield, namely the question of the production of his personal telephone "black book" to which reference was made at the close of his evidence before the Committee on March 11, 1992.

I wish to emphasize at the outset, that Mr. Harfield is and has been at all times, prepared to produce the book to your counsel, and has never refused to do so. Unfortunately, in the very tight time frame available to your Committee and Ms. Jackson, it was not possible for the parties to get together at a time suitable to all, for this purpose.

As your Committee will remember, there was no specific time requirement set by the Committee on March 11 for the production of the book.

Later, after your Committee had established Monday, March 30, as the time at which Mr. Harfield would be required to attend before the Committee with the book, Mr. Harfield made arrangements and reservations and was ready to leave Sudbury on the afternoon of Sunday, March 29, when we received a telephone call from Ms. Jackson's office advising that the Committee would not be hearing evidence from anyone on the Monday.

When Mr. Harfield offered to bring the book down to Toronto on Wednesday, April 1, he was advised by Ms. Jackson that there would be no point in his doing so.

The difficulties in working out arrangements are detailed in my letter to Ms. Jackson of April 1, 1992, a copy of which is attached.

It is to be remembered that Mr. Harfield did attend before the Committee at the time designated in the Speaker's Warrant, that he met several times with counsel to the Committee, that he gave evidence before the Committee, and responded to all questions asked of him by members of the Committee.

It is conceded that Mr. Harfield, who has no particular interest in or connection with the affairs being considered by your Committee, has been a reluctant witness. As the Committee has been advised, Mr. Harfield's principal concern is that his testimony before the Committee would be perceived in the eyes of the public as a violation by Mr. Harfield of a trust owned to a contact who gave information to him in a confidential setting. Accordingly, Mr. Harfield sought a ruling from this Committee that the evidence, if it had to be given by him under compulsion, would be given in camera. This request was granted, and we all swore an oath not to disclose his evidence outside of the Committee Room.

Unfortunately full details of Mr. Harfield's evidence was apparently leaked to the press soon after his testimony was completed, and later published by the Committee itself through its decision to disclose the transcript of virtually all of the evidence given by Mr. Harfield. These actions have had the anticipated effect, namely significant loss of business to Mr. Harfield and damage to his reputation in the community.

For the same reasons, Mr. Harfield was very concerned about the use that would be made of his book by the Committee, including its potential publication. These factors led him to the conclusion that, if possible, he would keep the book in his possession, and be in attendance to show it to Ms. Jackson. Unfortunately he was not able to be available when Ms. Jackson was available. Practical problems involving courier pick-up on Manitoulin Island, contributed to defeat Mr. Harfield's intentions to do the next best thing, which was to forward the book to me for production to Ms. Jackson.

Relevance of the Telephone "Black Book"

As your Committee will remember, the references to the black book arose out of a question by Mr. Elston, who asked Mr. Harfield: "If you had your book, would you remember who else you had called on that day?"

Mr. Harfield answered that "I possibly could".

I think it is a fair interpretation of the discussion which ensued, that the Committee was requesting Mr. Harfield to review his book and to advise whether or not there was any information in it relevant to the purposes of the inquiry. I think it is also fair to conclude that it was anticipated that Mr. Harfield would produce any relevant parts of his book to counsel for the Committee, and that such relevant parts could become evidence.

In a letter to one of Ms. Jackson's associates, Mr. Babin, dated March 25, 1992, I advised as follows:

> "Mr. Harfield has confirmed to me that, pursuant to my advice, he has thoroughly reviewed the book, in which has compiled a list of various acquaintances and contacts established over his 17 years of work as a business consultant in the Sudbury area. He also wishes to confirm the following:
>
> - the contents of the book do not assist in improving or refreshing Mr. Harfield's memory with respect to any matters relating to the issues which where the subject of his testimony before the Committee;
>
> - the contents of the book do not provide any additional information that would add to Mr. Harfield's testimony in response to any questions put to him by or before the Committee;
>
> - for the above reasons, and for other personal and business reasons, Mr. Harfield does not want to give up the book, nor does he wish to have it placed in evidence at the hearing."

In that letter, a copy of which is attached, it was suggested that Mr. Harfield was prepared to have the Committee's counsel review the book, so that she could form her own conclusions on these points.

Mr. Harfield has asked me to express to your Committee his sincere regret that, so far, arrangements have not been worked out in the manner hoped for and anticipated by all parties.

Notwithstanding the fact that Mr. Harfield has found nothing in the book relevant to the Committee's enquiry, he has at no time refused to produce the book, and was fully prepared to attend with the book before your Committee at the only date specified by it for this purpose. This opportunity was cancelled by the Committee for reasons having nothing to do with Mr. Harfield.

Mr. Harfield has attempted to co-operate with the Committee's counsel, in the very short time period that he was given for this purpose.

Mr. Harfield fully understands and respects the importance of your Committee's work, and does not in any way wish to obstruct its processes or fail to co-operate to the best of his abilities.

I trust that the foregoing explanation will be satisfactory to your Committee. I will be pleased to discuss this matter further with the Committee or its counsel at any time.

Yours very truly,

George H. Rust-D'Eye,
WEIR & FOULDS

GHR:cb
encl/

cc: Ms. Trisha Jackson

FILE COPY

WEIR & FOULDS
Barristers & Solicitors

H.S.O. Morris, Q.C.
A.S. Wakim, Q.C.
W.T.R. Wilson
G.R. Baker, Q.C.
R.R. Wozeniek
K. Prehogan
J.D. Winberg
B.N. McLellan
J. Matecek
D.R. Rogers
D.S. Tarshis
A.K. Clute
M.L. Sparrow
J. O'Sullivan
D.S. Brown
S.M. Thwaites
W.D. Coughlin
J.S. Paquette

J.P. Hamilton
M.J. McQuaid, Q.C.
B. Finlay, Q.C.
W.J. McNaughton
L.C.E. Tanaka
I.J. Lord
M.A. Gray
J.D. Campbell
D.K. Laushway
R.J. Lachcik
R.H. Kroman
J.N. Tascona
M.J. Dougherty
D.R. Wingfield
B.H. Engell
O.C. Brahmst
W.T. Egan
K.L. Cole

M.S. Archibald, Q.C.
P.D. Wendling
G.H. Rust-D'Eye
L.J. O'Connor
R.S. Sleightholm
R.B. Warren
J.S. Prypasniak
G.M. Caplan
J.G. Richards
J.R. Stubbington
D.P. Ferguson
J. Rosolak
J.B.A. Wilkinson
P.M. Daigle
G.M. Freedman
M.M. Chambers
S.G. Foran
B.H. Kussner

J.D. McKellar, Q.C.
N.W.C. Ross
R.W. Rosenman
W.A.D. Millar
P.M. Perell
J.G. Cowan
C.J. Tzekas
J.M. Buhlman
L.A. Borsook
L.M. Duffy
E. Mitchell
A.G. Formosa
C.G. Israel
G.W. Ackerley
W. Kady
J. Conte
L.E. Hastings

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Our File No. 41/201

WITHOUT PREJUDICE April 1, 1992.

Ms. Trisha D. Jackson
Tory Tory DesLauriers & Binnington
Suite 3000, IBM Tower,
P.O. Box 270,
Toronto-Dominion Centre,
Toronto, Ontario.
M5K 1N2

Dear Ms. Jackson:

Re: Standing Committee on the Legislative Assembly
- Keith Harfield

This is further to my recent discussions with you and Mr. Babin relating to arrangements for the production to you of Mr. Harfield's "telephone book", pursuant to the instructions of the Committee at the time of Mr. Harfield's testimony on March 11, 1992.

Unfortunately, for reasons discussed with you and Mr. Babin, and as summarized below, our client has not yet been able to produce this book to you. However, I want to emphasize that at no time has he refused to do so, and in fact he confirms that he is prepared to have you review the book, as outlined in my letter to your firm of March 25, 1992, a copy of which is attached.

I regret the delay in arrangements for production of the book. For the week following the close of the Committee hearings, I was out of the country on

vacation, although I understand that Mr. Babin was in contact with Mr. Kussner of this office on Friday, March 13, 1992.

When I returned to the office on March 23, Mr. Kussner advised me of his conversation and provided me with his confirming letter to Mr. Babin dated March 13, 1992, a copy of which is attached.

Mr. Babin contacted me on March 25, 1992, following which I immediately contacted our client, receiving instructions reflected in the letter referred to above.

Since the "telephone book" is in day-to-day use by our client and since this time of the year is his busiest period, it was his wish to photocopy the book prior to sending it to us. Unfortunately, no photocopying machine was available to our client until the weekend, and consequently the book was not delivered to this office.

Meanwhile, Mr. Babin had forwarded to me his letter dated March 25, 1992, a copy of which is attached, advising that Mr. Harfield was required to appear before the Standing Committee at 10:00 a.m. on March 30, 1992 pursuant to the Speaker's Warrant previously issued to him.

On Friday, March 27, at which time I was not in a position to confirm to Mr. Babin that the diary was in hand, he had delivered to me a further letter dated March 27, 1992 advising that Mr. Harfield would be required to attend before the Standing Committee on Monday, March 30, 1992 at 2:00 p.m.

In view of Mr. Harfield's difficulty in photocopying his "telephone book" and forwarding it to me by courier, I advised him that he was required to comply with the instructions contained in Mr. Babin's last letter, and Mr. Harfield duly made arrangements to travel to Toronto on the night of Sunday, March 29 so that he would be available to produce the book to you and, if required, attend with the book at the Committee's hearing scheduled for March 30 at 2:00 p.m.

On Sunday afternoon, I received word from Mr. Babin that the Committee would not be hearing evidence on Monday, March 30, and no date had been scheduled for such evidence to be heard. Therefore, Mr. Harfield's attendance would not be required at that time. I was able to reach Mr. Harfield with this information before he had left for Toronto.

Early on the morning of March 30, 1992, I arranged a telephone conference call with you and Mr. Harfield, at which time arrangements were made for Mr. Harfield to attend at your office at 2:00 p.m. on Tuesday, October 31. At that time, you advised that that afternoon was the only time that you would be available to review the "telephone book".

Later, I received a telephone call from Mr. Harfield, advising that he had just realized that he had appointments with clients on Tuesday, October 31 which would prevent him from travelling to Toronto. I advised him to send the book by courier and that I would present it to you. He agreed to do that, and, to the best of my knowledge, made all necessary arrangements for this to be done through Purolator.

In the meantime, I had asked you, and also Mr. Arnott, the Clerk of the Committee, for assurance that the Committee would be prepared to pay Mr. Harfield's expenses should Mr. Harfield bring the book down himself.

During the evening of March 30, Mr. Harfield advised me that Purolator had missed his house, had not picked up the book, and that he would be unable to have the book in Toronto by the afternoon of March 31, but would bring it down to Toronto on April 1st.

Some time later, Mr. Arnott called to advise that the Committee had authorized him to confirm that Mr. Harfield's expenses would be paid provided that he attended on the afternoon of March 31. By this time, I was aware that Mr. Harfield could not do that.

First thing on the morning of March 31, I contacted Mr. Babin, to set out the current state of affairs, and to confirm that Mr. Harfield is prepared to attend on Wednesday, April 1, with the book, and produce it to you or any other lawyer in your firm, for inspection in accordance with the Committee's instructions.

I received your telephone message on the afternoon of March 31, advising that "there is absolutely no point in Mr. Harfield coming at 2:00 tomorrow afternoon because the Committee mandate is completed at 6:00 tomorrow afternoon."

I trust that the foregoing will explain the delay in getting this book to you. Mr. Harfield was ready, willing and able to attend before the Standing Committee on March 30, 1992, as required by your letters of March 25 and March 27. That date is only one established by the Committee for Mr. Harfield to attend pursuant to the Speaker's Warrant. All other discussions and proposed arrangements involved discussions by solicitors trying to meet each others' convenience. In this respect, I do appreciate the extent to which you and your office have co-operated in trying to make such arrangements, but it must be emphasized that Mr. Harfield has not refused to attend and has not refused to produce the book for inspection. Unfortunately arrangements have not yet been worked out.

I would greatly appreciate your advising the Standing Committee of the foregoing, and thank you for your continuing assistance in this matter.

Yours very truly,

George H. Rust-D'Eye,
WEIR & FOULDS

GHR:cb
encl/

WEIR & FOULDS
Barristers & Solicitors

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Our File No. 41/201

March 25, 1992.

Tory, Tory, DesLauriers & Binnington
Suite 3000,
IBM Tower,
P.O. Box 270,
Toronto-Dominion Centre,
Toronto, Ontario.
M5K 1N2

Attention: Mr. Edward J. Babin

Dear Mr. Babin:

Re: Martel Inquiry - Keith Harfield

This is to confirm my telephone conversation with Mr. Babin on Wednesday, March 25, 1992 at which time I advised him that I have been able to contact our client, who has advised me that he will be sending the "telephone book" to me by courier for the purpose of showing it to you and/or other members of your firm.

Mr. Harfield has confirmed to me that, pursuant to my advice, he has thoroughly reviewed the book, in which is compiled a list of various acquaintances and contacts established over his 17 years of work as a business consultant in the Sudbury area. He also wishes to confirm the following:

- the contents of the book do not assist in improving or refreshing Mr. Harfield's memory with respect to any matters relating to the issues which where the subject of his testimony before the Committee;

- the contents of the book do not provide any additional information that would add to Mr. Harfield's testimony in response to any questions put to him by or before the Committee;

- for the above reasons, and for other personal and business reasons, Mr. Harfield does not want to give up the book, nor does he wish to have it placed in evidence at the hearing.

This is further to confirm that Mr. Harfield's instructions to me are that I may show the book to you and other counsel for the Committee, but I am not authorized either to part with possession of the book, nor to allow copies to be made of any of its contents.

Mr. Harfield would be prepared to swear to the foregoing in an affidavit.

I would hope that your perusal of the book, once I have obtained it and shown it to you, will enable you to carry out Mr. Harfield's wishes, while complying with your mandate from the Committee.

I will contact you as soon as the book is received, and take all steps to bring it to you at the earliest possible time.

I have now received a copy of a letter from you of today's date, advising that Mr. Harfield is required to appear before the standing Committee on March 30, 1992. In view of the foregoing, I trust that this will not be required, and confirm Mr. Babin's statement that unless there is relevant information in the book, it will not be necessary for Mr. Harfield to attend. This is also to confirm, that should there be any information in the book found to be of relevance, it is only that part of the information which would be placed before the Committee and all other information would be covered or severed off.

I trust that the foregoing is satisfactory to you.

Yours very truly,

George H. Rust-D'Eye,
WEIR & FOULDS

GHR:cb